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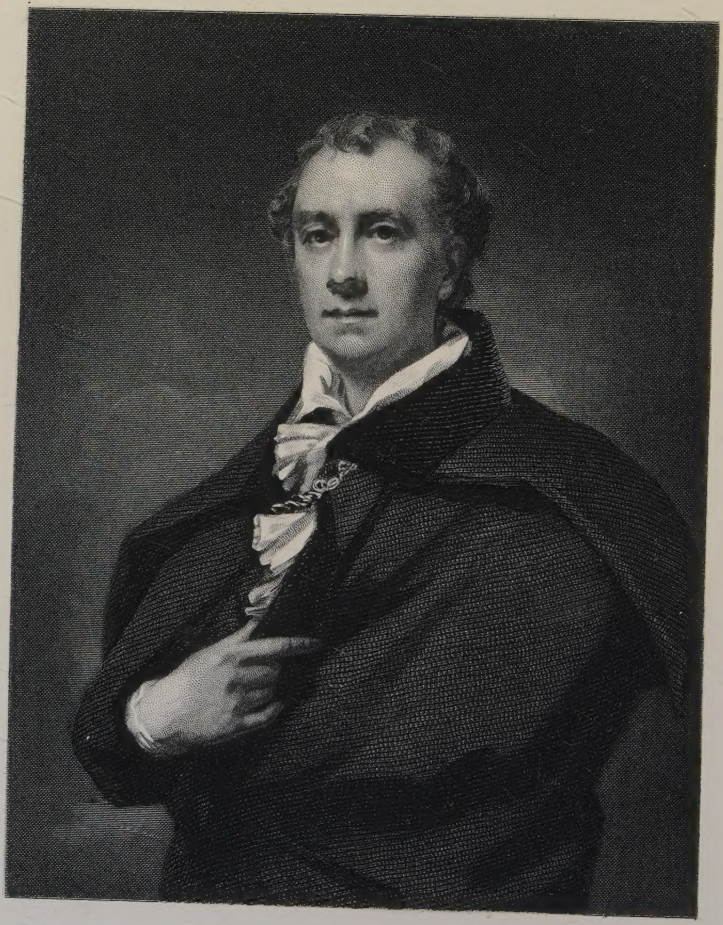

T. F. KENNEDY, M. P.

1822.

LETTERS

CHIEFLY CONNECTED WITH

THE AFFAIRS OF SCOTLAND,

FROM

HENRY COCKBURN,

SOLICITOR-GENERAL UNDER EARL GREY'S GOVERNMENT,

AFTERWARDS

LORD COCKBURN,

TO

THOMAS FRANCIS KENNEDY, M.P.,

AFTERWARDS

THE RIGHT HON. T. F. KENNEDY,

WITH

OTHER LETTERS FROM EMINENT PERSONS

DURING THE SAME PERIOD,

1818-1852.

WITH AN APPENDIX.

LONDON:

WILLIAM RIDGWAY, 169, PICCADILLY. W.

1874.

INTRODUCTION.

It would have been desirable that the Letters of which this volume consists, should have been accompanied by some connecting narrative of the events and affairs of the times to which they relate, but that has been found to be impossible. Such an historical statement, to do it justice, would have required the hand of a master, and it seems better, both on public grounds and in reference to individuals, that such an explanatory and connecting statement, should not be attempted, than that it should be executed by some one incompetent to the task. These letters relate to a very important era in the modern history of Scotland, a great transition period, and may perhaps acquire an increasing interest as time advances.

It has appeared desirable that these letters should not be lost to the public—especially of Scotland—and that they should be seen before all those are gone, who, when young, can remember the time and the individuals concerned. The letters are genuine documents of the dates they bear. They illustrate a progress of things, as to which there cannot be more

authentic testimony and information; they speak for themselves, and the writers are persons who all held a high place in the respect and estimation of their contemporaries.

Each reader can connect them with the information he may himself possess, or acquire from other sources, and thus they become contributions to the true History of the Country.

Had the publication been delayed until a later period there would have been a smaller number, or no persons remaining, who lived in, or had any personal knowledge of, the times to which the letters relate.

It may be worth while to advert briefly to some principal points in the condition of things in Scotland about the time when these letters commence. Many persons, now above fifty years afterwards, may not be aware of the mere facts on some subjects at that time, nor know that important changes have taken place which have now become matters of course, and have ceased to attract any attention, because they have ceased to be a new state of things.

In the year 1820, the state of the Law as to Juries in criminal cases, was what is now almost incredible, yet it was defended and upheld, and any one who disapproved of it was condemned as a dangerous man. The Jury was picked and chosen by the presiding

Judge, without power of challenge existing in the accused. The mere proposal of an alteration raised an outcry. A change was denounced by the small body of gentlemen who assemble in, and who are said to represent the opinion of, counties ; but reason prevailed, and it now seems inconceivable that the law ever was, what it was.

In the year 1820, the state of what was called the Representation of the People was almost incredible. The electors in counties consisted of a small body of gentlemen who possesed property and of electors who had no property, having only an empty feudal title acquired for the sole purpose of creating a right to vote. In towns the right of voting was vested in exclusive corporations, having no relation to, or sympathy with, the body of the people, and the largest town had no more power in an election than the smallest burgh. Glasgow was one fifth part of a representative body. Any change was denounced and resisted; but who will now venture to say that the great change ought not to have been made in 1832, a change made still greater in 1868? Such facts, and the actors engaged in them, ought not to be forgotten, and ought to serve as rallying points to all who have public duties to perform.

In 1820, the Law of Entail was held to be an insti-

tution in which no change ought to be made, but it has undergone a great modification, and is likely to undergo a still greater alteration.

In 1820, the Law relating to the Poor was very different from what it is now ; and it may be doubted whether the change is an unmixed benefit, either to the poor themselves or to the community at large. In some respects decided evils have been created. The law and practice are very different from what some of the best friends of the poor desired to see; and it is a subject requiring the greatest care and circumspection.

In 1820, the state of Education was in a defective condition. It has undergone a great change and improvement, both in rural districts and in towns. A national system has been established, co-extensive with the wants of the people, which cannot fail to produce wide-spread and satisfactory results, if worked in the spirit in which the law was enacted, and not allowed to relapse and degenerate into sectarian distinctions and interference.

Many other subordinate alterations of the law have been made; the greater number having originated with and been carried through under the strength and guidance of Liberal Principles, and by those who profess and act on them, and which have been forced on those

who did not and do not willingly or naturally entertain them. Scarcely any one on the Conservative side can now venture to offer himself for election to Parliament, without surrendering the ancient opinions of the party to which he has belonged, putting on the garments of his ancient Liberal opponents, and adopting the liberal opinions which they (the Conservatives) have spent their lives in denouncing. Ought such reluctant concession to satisfy earnest thinkers under liberal opinions?

It will be seen that Lord Cockburn entertained very decided opinions adverse to the anomalous and extraordinary accumulation of duties and powers vested in the office of Lord Advocate, a combination which cannot be paralleled in the office and person of any other individual in any country, and which cannot be so vested with advantage and safety to the general community. It is to be hoped that these duties and powers may be abridged.

A fearful blot continues to exist in the administration of the Criminal Law, which seems to be adhered to with singular pertinacity by all those who exercise official power on such a subject. All preliminary enquiry, founded on the suspicion of crime, with a view to detection, proof and punishment, conducted either by the Lord Advocate or his

Deputies, or by the Procurators Fiscal throughout Scotland, is conducted *in private*, with *shut doors*, *in secret*, and is an absolute *secret inquisition*. There is no Coroner's inquest, nor anything equivalent to it, by which the public mind can be satisfied, in any case of interest, anxiety, suspicion or doubt. If prosecution and trial take place, no doubt publicity and complete knowledge take place, but everything is *concealed*, unless the Public Prosecutor thinks proper that it shall be divulged, or that prosecution takes place. The Coroner's inquest is an open court, publicity is complete, and all that is wanted in Scotland is, that preliminary investigation shall be conducted with *open doors*. In publicity there is safety; in secrecy dissatisfaction, distrust, and danger. At present there is nothing but an irresponsible and despotic tribunal. A change in this respect is required, in order to remove a state of things which seems to be inconsistent with the privileges of a free People; and, *when effected*, it will afterwards appear as strange that the present state of things ever should have existed, as that other states of the Law ever should have existed where changes have long since taken place, which are fully established and command universal approbation.

LETTERS ON THE AFFAIRS OF SCOTLAND.

From Professor Playfair.

Burntisland Links, 20th July, 1818.

My dear Sir,

I wish that I could give you some more satisfactory information on the subject of which you write than I possess at present. There can be no doubt that an accurate knowledge of the lines measured, and of the angles observed in the trigonometrical survey may be of the greatest use in all the surveys of particular districts that may afterwards be required. How far Captain Colby's operations have yet extended into Ayrshire, I do not know, nor whether, supposing them to have so extended, the distances have yet been computed. Captain Colby himself is at present somewhere in this country, but encamped as he is sometimes on the top of a mountain, I have no means of communicating with him, till I am exactly informed of his place. Besides all this as the trigonometrical survey, like everything that is under the care of the Board of Ordnance, has a little

of an exclusive spirit that may sometimes be observed, I am not sure if Captain Colby may think himself at liberty to communicate any of his measurements till they appear in print, which as far as I know the triangles on the west of Scotland have not yet done. Indeed, as I said before, I am not sure that they have been computed.

Of all this however I hope I shall be able to inform you in a week or ten days. Jardine is now on a visit, I understand, to Colby, and I expect to see him here on his return. I will then know the exact point to which my letter must be directed, and I will let you know immediately what answer I receive. I am most glad, you may be assured, to contribute anything I can to the accuracy of a county map, and especially of such as my friends have a particular interest in. Do not, therefore, at any time make the least scruple about writing me if you think anything I can do is likely to be of use.

I am happy to see you M.P., and to think that you are so without any of the turmoil that has been agitating all the candidates for that honour, for some weeks past.

I am ever yours,

With the most sincere esteem,

JOHN PLAYFAIR.

From Henry Cockburn.

Edinburgh, 3rd July, 1819.

My dear Kennedy,

Upon the first subject mentioned in your letter, viz., the banishment bill,* a meeting of the faculty would have been called, but we too saw that it was too late. It is however a very bad measure, and so far as I know or can discover neither the court, nor any individual here of any consequence, were consulted about it.

As to your proposal for checking such things in future by a new standing order, I cannot judge of it. The communication between the two countries however is now so rapid, that I should hardly think any provision of the kind necessary.

With respect to the Justiciary juries, it is most important, more so than any other object that can occupy the attention of those who take an interest in such things. The nomination of the jurymen by the

* This was a bill to put an end to one of the oldest punishments known to the Scots Law — banishment from Scotland. It was well perhaps that such a punishment should cease, but the bill in question contained several most objectionable clauses, and involved some results of an absurd and mischievous kind. It could scarcely have been otherwise, as the measure had been introduced into Parliament, and passed the House of Commons, without apparently any one in Scotland having been consulted about the matter, or even made acquainted with what was about to be done. The bill was withdrawn by Lord Melville on its reaching the House of Lords.

judge is a part of the subject which stands altogether clear of the consideration of the mode in which the 45 are returned by the sheriff, and these two should, if possible, be kept distinct. Upon the first, no reasonable man can entertain a doubt, and it is quite plain and simple, and the improvement is recommended by the practice of England. So that, *though our Lord Advocate and the Court will object*, I think you must succeed in a parliament of Englishmen. But with this measure you ought to combine, *or even to get us independently* of it, a right of peremptory challenge, to the extent of not less than four for each party, agreeably to the analogy even of our own civil jury Court. This would be a great step gained, and would of itself in a great measure defeat the jobs of the Court, even though the nominations by their Lordships were to be continued; and I have reason to believe that this would not be opposed by the Court so much as the other. But both are due to the lieges.

As to the sheriffs' returns, I fear you had better let them alone at present. The *law* upon the subject is nearly quite right. The rule is that each sheriff should keep an accurate list of all those within his district who are liable to serve; and that adequate portions of these ought to be sent to each trial successively and in the order on the list. The evil is that in practice a sheriff, to serve a particular purpose, *may* not make his list full, that is, may leave out Whigs;

and that he *may* not return these offensive persons in their order. But no Act can prevent this, for the rule is clear; and the answer to you will be, that where a wrong is done, *the Court* ought to be applied to; that is, any one prisoner who conceives himself injured ought to object to being tried upon that return of jurymen. You know as well as I do, that this objection would, except the unfairness was very gross, be repelled upon the ground that the sheriff must necessarily exercise some discretion. But still I am not aware that it could be said that this had ever been tried, so that no practical want of redress could be alleged. Besides a proposal to alter the system, or even to enquire, would bring all the sheriffs, besides all the Court, against you, and, as the practical administration of this business is a good deal involved and mysterious, the result would be against any change, for every sheriff would describe his own practice as excellent.

Whatever may be done hereafter therefore, I think you had better not connect with this more intricate matter, one that is plain and clear; and indeed if the judge were not to name the jury, and the parties had the right of peremptory challenge, the errors or plots of the sheriffs would be useless. But the other points ought not to be delayed a single session.

The provincial abuse of your poor-law bill is an honour. What man can expect to do good without being abused?

Playfair is very ill, and Thomson* is in bed with lumbago, as he says; but he has got a hearing twice put off in virtue of this dispensation, and some people suspect that it is for "the mere purpose of delay." It will give you great pleasure to hear that our bench now holds Lord Meadowbank the 2d, and that Will. Rose Robinson, Esq. is an advocate depute.

Ever yours,

H. Cockburn.

Bonaly, Colinton, 27th August, 1819.

My dear Kennedy,

I write this merely to say that I have received your letter; that I am just setting out on a northern journey of business, so that I can do nothing at present; but that as soon as I return I shall try my hand at what you want. Nothing would give me greater pleasure than to pay you a visit, but I see no prospect of its being in my power soon; but you may depend upon it that selfishness will not allow me to lose any opportunity that may occur.

Yours very faithfully,

H. Cockburn.

* Thomas Thomson, Esq., Deputy Clerk Register. What follows is of course a playful allusion to the well known dilatory habits of this most learned and estimable man, and refers to a saying and joke by Mr. John Clerk, (afterwards Lord Eldin), that Mr. Thomson sometimes put off business for "*the mere purpose of delay.*"

From Lord Archibald Hamilton.

Hamilton Palace, Oct. 11.

My dear Kennedy,

I have received great satisfaction from your proffered visit, and have communicated your intention to my brother, who desires me to express the same sentiment on his part. He has not yet received the proposal you allude to from Messrs. Thomson and Jeffrey, but was much pleased when I told him their intention of accompanying you here on Friday next.

I hope and trust the promptitude of this answer will atone for all its other defects.

Very sincerely and faithfully yours,

Ad. Hamilton.

From Henry Cockburn.

Edinburgh, 20th April, 1820.

My dear Kennedy,

I have nothing more to say about the juries beyond what I formerly explained. Murray seems disposed to connect the two points of the balloting and the challenge with the returns of jurymen by the sheriffs, and various other matters of detail. All of these I am quite clear you ought to let alone, till these two simple objects be gained. So is Jeffrey. As to the number of challenges, I still think, and so does Jeffrey also, that you cannot, and for practical purposes need not, ask more than three for each prisoner.

It will certainly be objected to you that this may sometimes prevent the trial of more than two or three people at once. But to this there are two good answers: 1. This is a smaller evil infinitely than the present system. 2. It can be remedied by citing a few more jurors. I formerly mentioned to you, I believe, that more than 45 were sometimes summoned even at present, and I now see that Hume mentions (vol. iii. p. 88), on the authority of Lord Royston (a great authority on Scots criminal law), that even 65 have been summoned. This however seems only to be for *circuits*, for Hume lays it down that for the High Court there cannot by statute be more than 45. As he says so, I suppose that we must take it to be law. But still, as before the High Court there are never 15 jurors enclosed while another jury is set, 45 is enough; and therefore I don't think you need to make any provision for the probable default of jurors in your bill at all. If our foes invent this as an objection, then it may easily be met by a clause. There is another way in which Jeffrey and Murray were for removing it, and at the same time introducing a collateral and separate improvement, which was by reducing the number of the jury who try the case to 13 or to 11; but I fear that this would, just by its being another novelty, arm our opponents with arguments against us. Besides, since with us a bare majority can decide, I doubt if John Bull will like the compo-

nent parts of that majority to be diminished. He will stare when he hears it proposed to give 6 or 7 men the power of taking the life of another when he always requires 12.

As to the representation of Scotland, it cannot possibly be worse, and therefore the sooner it is changed the better: but your 40*s.* scheme I fear will never go down. I rather suspect that even the English feel it to be fully low enough; but certainly all Scotland would rise up against it. I should think £20 sufficiently low, or at least £10.

But as to both of these matters I am strongly disposed to think that this is not an expedient time to attempt their introduction. As to the representation, it seems to me to be plain that to introduce it now is just exactly equivalent to throwing the plan away. Even as to the juries, I am doubtful; but the proposal as to them is less connected with popular delusion. I am aware with you that the fear of failure, abuse, or prejudice, is no reason for declining to suggest improvements when they obviously are called for; and therefore if the existing mania was likely to last long, I would advise you to try fairly to resist it by correcting the faults in our system which may secretly be occasioning it. But where (as I hope here) a fitter, because a calmer time, is likely to arise, I think it is foolish to run any risk merely for the sake of gaining a session. Besides, Grant talks of positively proposing to

Parliament to make the punishment of Scots sedition the same with that of English, this session. Now all these innovations coming forward at once I suspect will alarm even some cool heads, for, to be sure, if we could in one session get, 1st, a poor bill, 2nd, a balloting and challenging jury bill, 3rd, a representation bill, and 4th, a sedition bill, Scotland might be said to have a constitution. But won't each of these be exposed to risk by their being all united?

It seems to me therefore if you bring on the jury bill this session, and *give notice* that you mean next session to bring forward the representation bill, you will do enough. But whatever you resolve, let me exhort you to make up your mind not to despair by a single, or even a dozen of failures. These are just precisely the matters of plain reason and expediency, which discussion never fails to subdue all opposition to. I will venture to say, for example, that after people's eyes were opened by an objection and a debate to the absurdity of the jury being named by the judge, there never would be a trial where his Lordship's doing so would not excite salutary awe in him and jealousy and inward derision in others. As to cases of actual abuse, every honest and intelligent man could specify scores of them. Every political case, without exception, is one. Look at the juries from 1793 to 1798, and look at the trial (Howel has it) of Stewart of Ardshiel, about 1746, for the death of

Campbell of Glenure, where the Duke of Argyll obtruded himself to preside as Justice-General, and put 12 or 13 *Campbells* on the jury. Kilkerran and Elchies alas ! were present, yet this did not prevent judicial murder being committed *by the Court's naming the jury.* But the truth is, that these examples cannot at a distance be understood, and they ought not to be mentioned. It is indecent to specify cases where the judges have not (yet) been impeached. The enemies of the measure would like nothing better than an attack on the judges; but you will observe that the promotion of our judges is not, as is generally the case in England, stopped when they get on the bench, a single gown may in time become three gowns ; and even the wearer of the whole three, *i.e.* a Lord of Session—of Justiciary—and of the Jury Court—has *four* presidencies *before* him, if he behaves well. Are these the men to trust with the naming of the jury in a political case? Yours faithfully,

H. Cockburn.

P.S.—I see that Sir George Mackenzie mentions in his vindication of Charles the Second, that he got Parliament to pass an Act giving prisoners a peremptory challenge of jurymen, and he specifies the statute. It is not in the common printed edition of the Scots Acts, and Hume says it never existed. I suspect Hume to be right, for Sir George was a false dog; but I mean to set the Depute Clerk Register a-working.

From Lord A. Hamilton.

(Private)

House of Commons, Friday.

I wish you would meet Finlay and Hume at my house on Sunday at two o'clock, and *I depend upon you* bringing Murray with you, as I know not where he lives. I wish you would invite Macdonald, Mackintosh and Abercromby to the honours of the sitting also. Be punctual at two o'clock.

Our Committee is to meet on Monday.

Yours truly,

Ad. Hamilton.

From Francis Jeffrey.

Craigcrook, 5th October, 1820.

My dear Kennedy,

There is nobody with whom I desire so much to be made acquainted as Mrs. Kennedy, and nobody whom I would go so far to see; but I have been so long from home, and find such an arrear of things that have been neglected that I dare not at present allow even my imagination to look towards Dalquharran.

We only returned from the North two days ago, and I am unluckily forced to go to Glasgow to-morrow, so that all voluntary movements must be precluded for some time. It is not also totally im-

possible, however, that I may find means to run out to you about the end of the month, though I believe you know too well my bad economy of time to expect very confidently that I shall so soon have any to employ so pleasantly. At all events, however, I hope that you will arrange things so as to spare us a little of your society as you pass to the South, and give us timely notice of your approach that we may bespeak a little leisure to enjoy it.

Cockburn is immovable on the Pentlands, and Rutherfurd has gone to London. I do not know whether I should detain Thomson till I can go with him, or send him now as my proxy. If we come together we are resolved to renew the Saturnalian scenes of last year, for which you must prepare Mrs. Kennedy accordingly.

Pray believe that there is nobody who rejoices more in your happiness or has more confidence in its lasting.

Ever very faithfully yours,

F. Jeffrey.

From Henry Cockburn.

Edinburgh, 6th Nov. 1820.

My dear Kennedy,

Mr. Langlands, who has for a long time been Solicitor at London for the Convention of Royal

Burghs, is dead, and Richardson is a candidate for the office. It depends upon a vote of the convention which meets at Edinburgh in July, but it is necessary for his success that interest should be used in the meantime with those who are usually members, or with their electors, who are commonly the provosts of the different burghs. If you be inclined, and feel it perfectly easy and convenient, to bespeak the favour of any burghs over whom you have influence, of course he and his friends will rely on your doing so in your own way. But if (as is most likely) you do not wish to apply to these people except when it is absolutely unavoidable, don't allow this communication to allure you from your system, and at all events believe me,

Yours very faithfully,
H. Cockburn.

P.S.—I believe, but am by no means certain, that Mr. Campbell, a solicitor, is his competitor.

From the Right Hon. George Tierney.

Saville Row, Jany. 4th, 1821.

My dear Sir,

I hope it will put you to no material inconvenience to be in the House of Commons on

the 23rd. In the present critical state of public affairs a full attendance of our friends is most particularly to be desired, as business of the greatest importance must immediately be brought forward, and ministers are making every exertion for a strong muster of their forces.

All your meetings in Scotland, as far as I am capable of judging, appear to have gone off uncommonly well,* and no man I think can pretend to doubt what is the real sense of the country.

Believe me, my dear Sir,

Very faithfully yours,

George Tierney.

* About the end of 1820, meetings had been held in all the large towns to express loyal attachment to the throne, but at the same time to complain of the oppressive character of the Government, the ignorant and illiberal policy which had repressed industry and grievously aggravated the national distress, and to petition the King to remove from his Councils a set of men whose continuance in office was bringing misery, disgrace, and contempt upon the country. It was at this time that the famous Pantheon meeting, described in Lord Cockburn's "Memorials," was held in Edinburgh. At Glasgow a meeting was called by circulars addressed with wary exclusiveness to Government partizans only, in the hope of getting a merely loyal address passed. But as the matter got wind, the Provost, on his arrival, found the hall filled with respectable citizens, and immediately fled with precipitation. The petition for the dismissal of the Ministry received upwards of 18,000 signatures.

From Henry Cockburn.

14, Charlotte Square, 21st February, 1821.

My dear Kennedy,

I am glad to see you fairly afloat. The newspaper reports were, no doubt, abundantly absurd, but everybody here knows perfectly well what your object is, and as you will make it plain enough in Parliament, I trust that in time it will be understood generally.

I have been thinking whether a little statement in print would not do good—I mean a simple explanation of the facts as to the constitution and practice of the Court of Justiciary, and of the use of your bill as applicable thereto. I was so much impressed with this, that I almost sat down to compose an article for a pamphlet or the Scotsman, for it ought not to occupy above two newspaper columns. But the newspaper or pamphleteer lines are not respectable, and perhaps you may think that provoking any discussion with a Tory press might not do good. Tell me what you think as to this. Would a short article in the next Review be too late? Or would it be of any use to you to have a few manuscript pages to print and communicate at your discretion, not at all arguing the merits of this bill, but letting people know the plain facts as to the nature of our only criminal court? Or do you think it would be better

to wait till we hear what the Lord Advocate has to say against it? I have a notion that in two hours a few pages might be written which would answer all the purpose I have in view. But perhaps you would rather be let alone—and perhaps it is too soon.

Do not be discouraged, for even though you fail this time, the very discussion is of great use—especially as it prevents the people here from getting habituated to their horrid present system; and must operate as a great check on judges in their nomination of juries, so long as they are allowed to nominate. Richardson has written to me to-day expressing a doubt, and begging me to solve it, which I have done.

Mrs. Kennedy who called here yesterday seems well. Yours ever,

H. Cockburn.

From Lord Archibald Hamilton.

Chapel Street, March 3rd.

My dear Kennedy,

You said you would write me your final wishes as to my asking leave of absence for you, which you have not yet done. You will see by the newspapers that a *call of the house* is fixed for Friday 16th, on the Catholic question. Probably you will wish to attend upon that day, and probably I shall

not be able to obtain leave of absence, whether you wish it or not. I shall do NOTHING, however, in the matter till I hear from you: but recollect *I* can only *ask* leave for you, not *grant* it ; you must take your chance for that, and *if refused* you will not have time to return, *after* I have it in my power to let you know the result of my application, unless I make it soon.

Tuesday, 6th.

I did not *send* this, but waited to *advise* with others *what best to do for you.* I found you had entrusted yourself to Abercromby. He *has* obtained your leave for a month, but still we all *hope* you will either *come* or *pair off* in favour of the Catholics on Friday, 16th.

My committee* goes on worse and worse. Pray explain this to Ivory and to Bell, both of whom are under the *delusion* that the committee is under *my influence*, and will give effect to my sentiments. I have letters from both of them this day in answer to my *censure* and *remonstrance* of the compromise in the Edinburgh case. I admit the FORCE of what they say; still the compromise is most *injurious* to the cause of Burgh Reform. PRAY, PRAY, CONVINCE,

* A committee appointed by the House of Commons, on the motion of Lord Archibald Hamilton, to report on the petitions sent up to the House in the three previous years from the Royal Burghs of Scotland in regard to the municipal representation, and the management of corporation affairs.

CONVINCE THEM BOTH, that the best REPARATION *now* to be made for this vile compromise is the sending me a FULL and FORCIBLE petition, stating their *whole case* to the House. I mean the LENGTH and EXPENCE of suit, the delays frivolous, the little good to be hoped from SUCCESS, without a future *poll election* instead of the revival of the old Sinners, and all the FACTS of the case. You should *superintend* the framing of the petition. Ever sincerely yours,

AD. HAMILTON.

Minute of Meeting of the Commissioners of Supply, Freeholders, &c., of the County of Ayr.

30th April, 1821.

The Sheriff Depute of the County laid before the Meeting the Copy of a Bill proposing certain alterations in the mode of choosing juries in criminal cases in Scotland, with a letter from the Lord Advocate, requesting him to communicate it to the meeting that they might express their sentiments respecting the alterations proposed.

After the Sheriff and several other gentlemen had expressed their opinions on the subject, the following resolutions were proposed by Mr. Ferguson of Crosshill, and seconded by Mr. Blair of Blair.

"*Resolved*—That it appears to this meeting that the alterations in the mode of choosing juries in

criminal cases in Scotland, proposed by the Bill now submitted to the meeting, are unnecessary and inexpedient. Unnecessary as not being called for by the existence of any practical evil in the present form of choosing juries, and inexpedient as tending greatly to increase the burden of serving on juries, and to multiply difficulties in the due administration of criminal justice."

"*Resolved*—That this meeting do therefore petition the Honourable Houses of Lords and Commons against the passing of the said Bill. That the Earl of Glasgow, Lord-Lieutenant of this County, be requested to present the petition to the House of Lords if the Bill should be introduced into that House, and to use his influence against the passing of the same; and that Lieutenant-General Montgomerie, Member for the County, be requested to present the petition to the House of Commons, and to use his influence against the passing of the same."

The Meeting adopted the above resolutions by a very large majority, and afterwards agreed to the following petition, which was moved by Mr. Boswell of Auchinleck, and seconded by Mr. Montgomerie of Annicklodge:—

"To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

"The Petition of the undersigned Freeholders,

Justices of the Peace, Commissioners of Supply, and other Heritors of the County of Ayr."

"Humbly sheweth,

"That a Bill has been introduced into your Honourable House, the object of which is to alter the mode of choosing juries in criminal trials in Scotland, which your petitioners have seen with surprise and regret; with surprise that a remedial measure should have been proposed to change so materially the established practice, against which neither objection or complaint have ever reached the knowledge of your petitioners; with regret that an imputation has thus been virtually, although we are satisfied unintentionally, thrown on the purity of the administration of justice in this country, hitherto deemed far above reproach or suspicion.

"Your petitioners beg leave humbly to state to your Honourable House, that we consider the proposed innovation as gratuitous and uncalled for, promising no beneficial result, and altogether inapplicable, unless other changes are introduced, which we trust never will be sanctioned.

"Your petitioners rely on the wisdom of Parliament, and feel confident that your Honourable House will guard the people of Scotland against hazardous experiments on so grave a subject, and we therefore humbly pray that the said Bill may not pass into a law."

And the petition having been signed by most of the gentlemen present, was appointed to be transmitted to Lieutenant-General Montgomerie, the member for the county, to be by him presented to the House of Commons.

From Henry Cockburn.

14, Charlotte Square, 8th June, 1821.

My dear Kennedy,

A fit of public virtue came upon me a few days ago, in the course of which it occurred to me that it was an absolute duty to publish some explanations about your bill. I therefore sat down, and have nearly finished a few statements and observations which, though utterly useless to any person acquainted with the subject, may not be quite thrown away upon others. I have spoken to Jeffrey, and he is not only willing, but anxious to have a review on the matter; and if, when it is finished, there be enough to make a decent article, I suppose I must let him have it. But I must have the resolutions or petitions laid before Parliament by the Scots counties, for the folly and ignorance of the late meetings must be exposed a little; at least it is not safe altogether to overlook them. Now, unless you, to whom I suppose all Parliamentary papers are given, can get them for me, I don't know where to find them, for they are not yet in our library, nor, so far as I know, in Edinburgh. If you have them, do let me have a sight of them, *and*

as soon as possible, else we shall be too late, and my fit may go off. I believe it would be right that you saw the article before it was published, lest it might contain or omit anything you thought important or wrong. If you will say that you have any desire to read it, I shall contrive to get it sent to you.

All the worthies here are well. The Crichton Club held its annual orgy yesterday at Dalkeith. All absentees formally cursed. I trust that Mrs. Kennedy is keeping well, though if you have in Ayrshire such weather as we have here, the preservation of health is scarcely possible. Yours ever,

H. Cockburn.

14, Charlotte Square, 27th June, 1821.

My dear Kennedy,

Horner tells me that Mr. Romilly is going to Dalquharran, and has promised to ask him to re-convey to you the papers you lent me, and which I now enclose.

I have at last, after many interruptions, got an article finished, and have settled with Jeffrey about it, provided he shall like it when he sees it. I hope it may prove sufficient to explain the facts; but otherwise, it is long, ill-written, not finely reasoned—too technical, filled with insincere compliments to Courts, and with the most cordial and avowed contempt of Scotch country gentlemen.

Upon reflection, I rather think it is better to keep you entirely clear of the abuse which will probably be poured out about this libellous article; and therefore I have resolved not to send it to you. It can give you no pleasure to read a bad manuscript, and you will find it useful to be able hereafter, and in all places, to say truly, that you had nothing to do with the sins of that review or of its author. Yours ever,

H. Cockburn.

Bonaly, 1st August, 1821.

My dear Kennedy,

I don't believe that Mrs. Cockburn will stir from home this autumn. I have some chance of being at Ayr on business, in which case I shall certainly do myself the pleasure of seeing you at Dalquharran. If Mrs. Cockburn should be with me, of course she shall do so too, and, at any rate, she begs to be remembered kindly to Mrs. Kennedy, in which I have great pleasure in uniting.

I am not aware that Jeffrey has postponed the Anathema. He spoke to me about one point the other day, and I understood that he was printing it. I may be wrong however, for when I sent it to him, I told him to alter or reject it as he chose; and being anxious to leave him to the freedom of his own will, have always abstained from asking any questions. I was afraid of being thought disrespectful

to the Court, and was utterly regardless of the feelings (if they have any) of the country gentlemen; and all that he has ever said was that he thought that the Courts had nothing to complain of, but that the assault on the Freeholders was somewhat too outrageous. Of course, I bid him soften it, which he said he would do. He has gone for a day or two to Pitcaithly with poor Pillans, who has been very unwell, and I am afraid is not in a good way. His bodily health is sound; but he gets horridly hipped in his spirits.

Hermand, who is by me, I hear saying that this is the day King William landed, and used to be held as the anniversary of the Revolution. If it be, I wish you joy of it. Ever yours,

H. Cockburn.

Bonaly, Colinton, 11th August, 1821.

My dear Kennedy,

You are right, the article is to be postponed. Jeffrey had not resolved to do so; but upon holding a consultation here, two days ago, with Murray, Thomson, and the Scotsman, we agreed that it was better for the cause, to be quiet till near the time at which the measure is to be brought forward again in Parliament. If anything were to be published now, the enemy would raise a cry and invent imposing statements, which however absurd they might be,

would certainly have the effect of increasing the prejudice which already exists. This they will no doubt attempt at any time; but it gives the subject a fairer chance not to give them an unnecessary length of time to practise their usual arts.

Jeffrey (as I understand) has printed it; and he really amazed and horrified me, by telling me its length. It must absolutely be curtailed—I hope by him. Yours faithfully,

H. Cockburn.

Bonaly, Colinton, 31st August, 1821.

My dear Kennedy,

It is wise to inform all men of their coming calamities. I am to be at Ayr on Monday se'enight, the 10th of September, and after my job is done there, which it will be I presume on the evening of that day, I meditate an invasion of Dalquharran for one or for two days. Jeffrey is inventing reviews at Tarbet, but when I saw him last, which was about a week ago, he then intended to join me, in this enterprize. If you are to be from home, of course you will let me know. Yours faithfully,

H. Cockburn.

14, Charlotte Square, 25th October, 1821.

My dear Kennedy,

I write this merely to acknowledge the receipt of all your packets. As I look upon you as having

the most ostensible interest in the discussion, I am glad that you are not dissatisfied with the tone of the review.* The correction by William Murray, which takes two circuits from us, but gives us four sessions instead, is very important. I wish you had made the article shorter. I shall leave out the doubt about the use of grand juries; but I am clearly of opinion, that the introduction of them in Scotland should not be rashly broached. I agree with you about the extravagant powers of the Lord Advocate, but I doubt if grand juries, *by themselves*, would tend at all to abridge his authority.

My notion is just this:—Grand Juries owe their use entirely to this, that their existence virtually implies, that the sacred and delicate right of prosecution, is to be checked and exercised by the people themselves. Now I don't think they can be trusted with this, unless you take other things along with it, which shew that they are habituated to the actual practice of regular liberty. Of these things it seems to me that free popular elections—private prosecutions—and fairly chosen juries—are indispensable. Observe what happens in England. The grand jury, from the practice of popular elections, have necessarily a strong infusion of the spirit of independence among

* On the nomination of Scottish Juries, by Mr. Cockburn, in the Edinburgh Review for October, 1821.

them. Then the cases come before them under no high official influence, but merely at the instance of private parties, who may be actuated by mere passion, interest, and prejudice; and after all, the case, though to a certain extent it must always be prejudged by the opinion of a grand jury, is at last tried by a petty jury fairly appointed.

But observe what would take place in Scotland. Our law or practice, not allowing of private prosecutions, every case would begin by all the prejudice which the personal, professional, and official character of the Lord Advocate prosecuting must always give. Then this influence is first exercised over a grand jury, composed of men, who, from the want of popular elections, (which I take chiefly as a test of their public feelings), have a natural sympathy with power, and in the country at least must all be gross Tories. What improvement would it be in the security of any supposed culprit, especially in a political case, that instead of having his conduct judged of by a responsible and single individual, he has that individual using his influence with a jury of his adherents and dependents, and thereby not only doing the thing supposed to be questionable, but slipping his neck out of the noose of responsibility at the same time? Then, after all, the case would come before the petty jury, not only with the opinion of the Lord Advocate in favour of the prisoner's guilt, but with

that opinion corroborated by a verdict of a grand jury of "most respectable country gentlemen." And if to all this be added, that, lest this double prejudice should fail to produce its effects, the presiding judge is to select the jury, the system would be complete.

Of the last mischief, I trust that your Bill will free us. But still, while the Advocate alone prosecutes, and we are denied the use of all those popular parts of the constitution which alone can render us honest and fearless, I see little good in the institution of grand juries. So far as my experience goes, if I were suspected of sedition, I would rather have the imputation judged of by any Lord Advocate who has been in office in my day than by a grand jury of Afflecks, Blackwoods, or Beacon Bondsmen. It is very true that we must begin these changes one by one; but popular election is the first thing that ought to be attempted—grand juries the last.

After all, it is possible that this may be all nonsense; so we must have a talk about it some day with Murray, who, Horner tells me, is keen about this matter. Horner's School of Arts has been opened gloriously. He is a most useful citizen, and it is of great importance to have such a person here, not of the law. I have no doubt that with his excellent habits of arrangement and of business, of good manners, science, and whiggism, he will in time greatly raise the character and zeal of our other merchants and tradesmen.

What a scrape "our advocate for our interest" has got into! He is a ————, and richly deserves it. The revival of his letter to the counties* just about

* It may be worth while to give the Lord Advocate's letter as a specimen of the way in which political matters were managed at this time. Mr. Cockburn states, in his Edinburgh Review article, that it was sent to every county, and he believed to every royal burgh in Scotland.

"*London, April* 6, 1821.

"Sir,—I beg herewith to transmit a copy of the proposed Act of Parliament relative to the mode of choosing Juries in Criminal Cases; and beg that you will communicate the same to the Convener of the County of ——, so as it may be taken into consideration by the County at the ensuing —— meeting. Those present will be able to judge, from their own experience, whether any such evils have resulted from the present practice as should render such a change now necessary. These changes, if once commenced, will naturally lead to others; and it is impossible to foresee the inroad which may thus be made on the criminal law of Scotland, with which the country has hitherto been so truly satisfied. It is indeed quite obvious that the Bill now proposed, if passed, must be preliminary to another act, requiring the attendance of an additional number of jurymen at circuits. Peremptory challenge necessarily puts an end to the trial of more than one person in the same indictment; for prisoners, under such circumstances, never will be advised to concur in their challenges. The number of trials will thus be increased, while the power of the Judges so to distribute the business among the forty-five as to make it practicable for that number to accomplish the duty will be taken away; and as the ballot may repeatedly fall on the same individuals, the only palliative remedy will consist in augmenting the general number from which the fifteen is to be selected. Though my own mind is made up against the policy of the proposed pro-

the time at which Parliament meets will not introduce him more favourably.

I hope you mean to be in town for a little this winter. We shall hold Friday Clubs, Punch Associations, and all other convivialities to tempt you. Remember me to Mrs. Kennedy, who I trust is keeping stout.

No doubt you are amazed at the longitude of this epistle; but the real fact is that I have got lumbago, and cannot go out, and am idle; and besides, you know that that disorder stiffens the muscles into any position they are once forced into; so that a patient should

vision, I do not desire to be understood as wishing unduly to influence the county gentlemen, in the decision which they may form regarding it; but merely to point out some of the probable consequences, so as there may not subsequently exist any just cause of complaint, if, when the Act is put in force, such inconveniences should be found to result from it.

I have the honour to be, &c.,

(Signed) Wm. Rae.

"P.S.—As consideration of the Bill is to be resumed on the 8th of May, no time should be lost in communicating to me the resolutions adopted on the ——; and if it is the wish of the meeting to oppose the measure, the effectual way is by petition to the House of Commons.—I have the honour to be, &c."

The result of this letter was that the country gentlemen, who up to this time had been perfectly quiescent, were immediately all in commotion. Resolutions were passed and petitions sent off to Parliament, similar to those given at p. 19, in which the official objections to the Bill are repeated with servile simplicity.

never begin to write while he has it, for being made rigid in the writing attitude, he must just go on.

Ever yours, H. Cockburn.

14, Charlotte Square, 18th Nov., 1821.

My dear Kennedy,

Your letter was delivered to me yesterday, when I was busily engaged quaffing with Thomas, Jeffrey, Horner, and Loch. I wish you had been with us then, or with the two Murrays and some of them to-day at the Friday Club.

I sent the review finally to Jeffrey two days ago, as his coming number is half printed. The article is much improved by some authorities and examples into which I was led by a communication from Murray. In particular I have added an exquisite letter from the Lord Advocate of James the Sixth, which I daresay Murray would tell you of, and a very decided opinion by Lord Dreghorn. But I lament the increased length to which these additions have stretched what was already a great deal too long. William Murray is clear that just before your motion comes on, there should be a short statement, in one page of letter paper, distributed among the members, particularly such as are country magistrates. Richardson, I should think, would be the best person, next to yourself, to do it in the best way to hit the House; but if I can help you I shall willingly do so.

As to the representation, it is of all other reforms the most cravingly necessary. It is the root of all our evils, and until it be removed, everything else is trifling. Though there be grounds, no doubt, for viewing Edinburgh as a solitary case, and for making it the subject of a separate experiment, I am quite clear that every proposal of this kind will be successfully and plausibly met by the objection of the unfairness of setting its representation upon a different footing from that of all the rest of the country; and that there is no chance, especially with an English Parliament, which will look on the whole system but won't pry into details or exceptions, but in one broad and universal measure, and that the nearer we can propose to make ourselves to England the better. Lord Archibald has been anxious to see Loch at Hamilton—no doubt about this matter; but Loch goes to London to-morrow. He has engaged to furnish a bill; and whatever Archie does, no session of Parliament ought ever to pass without our total want of representation being brought forward.

Loch tells me of another scheme, which you should be on your guard about. It is that Lord John Russell wants a bill for putting an end to our infamous way of punishing sedition. He applied to me for it, and I have promised to give it, but not till your bill is disposed of. There can scarcely be too many reforms about the political state of Scotland; but to introduce

two at once, *applicable to the Court of Justiciary*, would certainly prove fatal to them both. I have implored Loch therefore to make the House of Russell quiet till we see how your next effort is taken.

As to the poor, I think you are right in bringing on the subject again. People's eyes are somewhat opened since even last year, and there is a greater alarm now than there ever has been, of the progress of that horrible tide, the poor rates. Chalmers' reviews have done vast good, and if you could get Jeffrey to make him write another, *devoted to an exposition of your scheme*, in which I am certain that he concurs, I should not despair of your succeeding. I have thought a good deal about the difficulty of arranging between the heritors, and the ministers and elders. You are wrong in your notion about the law. At least, I fear that if the heritors were to stay away from the meeting, or if from any other cause, *innocent on the part of the Session*, the assessment was laid on solely by the elders and minister, they *could* compel the heritors to pay. Therefore there is a great puzzle. If you *do* propose to limit the numbers, or the votes of the Session, you bring all the Church on your head. If you do *not*, you raise an alarm among the country gentlemen. There is only one way of settling this; which seems to me to be by enacting that no appeal, to any court, shall be competent against a *refusal* to assess. Observe the operation of this. If the Session be

unduly increased for the purpose of overlaying the heritors; or if the vote be to assess unnecessarily, or extravagantly; or if there be any objection whatever *to an assessment*, the heritors, and the Session are left exactly as they now are. But suppose that the meeting has sense *not* to assess, or that from any cause they refuse or decline to do so, then all parties including the poor are forced to acquiesce, and I should not fear now openly to avow that the object of this was to discourage poor rates. As to the constitutional objection, as it is called, it is horrid nonsense. I know no constitutional right any man has to ruin his own morality, and pick my pocket at the same time. I could mention many other cases in which existing statutes give an appeal to one party and not to another.

The progress of these cursed poor-rates is curious. The Paisley case is not settled yet, but the plea there is that people *out of work*, though in perfect health, have a legal right to be maintained. If this be carried, the result is, that any human creature who is poor must be made rich, and out of what funds is this to be done? The old law was supposed to give the poor the valuation of the heritors. But in Gammell's case, from Greenock, it has been decided that even in country parishes, *income* can be assessed, though that income be in the Bengal funds. And this week a great case has come into court from Glasgow,

in which the demand, as I understand, is to sacrifice every species of income, not only within the burgh, but all round it, for behoof of the city. So that the whole property, real and personal, of every creature is to be scrutinized in support of every person who needs it. And this, at the very time that Parliament has resolved that in England personal property shall be saved.

I don't believe that there are to be any law changes here. Gibson's actions have not begun. His triumph in getting the Beacon demolished has been so great, and the poor Tories seem so low and unhappy, that I cannot help thinking he should let them alone, especially as his success is very questionable; and the very existence of the suits gives the Advocate a handle in Parliament.

As all men should be prepared for their calamities by knowing they are coming, I have been directed to let you know that about a dozen of us, including Thomson, Jeffrey, Murray, Pillans, &c., intend to be at the Lord Rector's installation at Glasgow, about Christmas, and that our plan (instigated by Thomas) is that you shall join us there, and that we shall all go for one day to Dalquharran. Lord have mercy on you. "Coming events cast their shadows before."

Ever yours,

H. Cockburn.

P.S.—Keep down Lord John.

14, Charlotte Square, 28th December, 1821.

My dear Kennedy,

I lament the failure of the irruption; but a variety of causes, chiefly the difficulty of getting so many persons to forego their other avocations and concur in any one scheme, prevented it.

The Marshall, Timotheus, Jeffrey, and Keay are all to dine *at Cumbernauld on Wednesday the second*, and that detachment proceeds to Glasgow the next day. Rutherfurd, George Joseph, and myself, intend to be at Glasgow that day (*viz.* the 3rd), but we don't go to Cumbernauld.

Now after conferring with the Marshall, the orders to you are that instead of stopping at Glasgow on the 2nd, you go one stage further and dine at Cumbernauld on the 2nd; that you go to that city, where we all meet, next day; that we all assist in installing the Rector; and that we then dine together. "The rest who does not know?" You are relied on for this. Hutton's is our domicile at Glasgow.

The inch-and-a-half* *is* Jeffrey's. I should grieve if it had hurt the said Jeremy. But it is quite true of his book, which is written as if for the very purpose of provoking by its unintelligibility. Ever yours,

H. Cockburn.

* This refers to the first paragraph in Cockburn's article, which had been added by Jeffrey, and gave some dissatisfaction to Jeremy Bentham.

14, Charlotte Square, 30th Dec., 1821.

My dear Kennedy,

I had a long talk with Sir Harry* yesterday about the poor bill. The poor laws are the only subject on which I never thought, and don't think, that sound head is clear: yet he is clear that your bill would do immense good; and he holds that the puzzle about the Kirk Sessions is no practical puzzle at all: for he says that in *point of fact* the heritors are almost everywhere (proxies included) enough to keep down the Session, and that if a minister were to increase his elders for the purpose of outvoting the Lairds, he would be certainly checked by the Church Courts.

But he concurs with me in thinking that you have no chance of success unless you can open the eyes of the country a little to the nature and consequences of your measure. Jeffrey thinks the reverse, and holds that though it be well founded, the more it is talked of the worse, and that your only chance is to steal into a law undetected. This last is plainly impossible, and as to the idea that knowledge is not, in this as in other cases, to prove bliss, I cannot comprehend it.

I once proposed to Jeffrey that he should get Dr. Chalmers to write a review, or a series of them, in support of your proposal—not by name or allusion, but by discussing the general principle. *Sir Harry cordially approves of this*, and the purpose of my

* The Rev. Sir Harry Moncrieff.

writing to you now is (lest I should be prevented from going to Glasgow, which is not impossible), to advise you, as Sir Harry does too, to speak to Jeffrey there, if you can get him an hour sober and idle, and he may speak to Chalmers. The problem to be discussed is merely that as the law now stands there must be poor rates, if the poor wish them, though all the world be convinced of their mischief, because courts of law cannot deny relief on grounds of expediency, where the law gives a right to it; whereas, if the pauper had no right to compel relief to be given, the progress of knowledge would be allowed to operate, and migh t drive them out of the land. There are boundless views, facts, and reasonings in support of this proposition, without there being any allusion made to your bill, which would at present be dangerous.

You said you did not understand the scope of my making the law to be that nobody should be allowed to appeal against a *refusal* to assess. It is simply this: 1. I want to conceal the apparent hardship of denying redress to the pauper *alone* by letting *nobody* appeal. 2. It leaves the courts, civil and ecclesiastic, open to the Lairds if the Sessions be unduly enlarged, and an assessment thus made. Though the door be shut to all the world, where there is a *refusal* to tax, I would leave it open to all the world, and among others to the Lairds, where an assessment *is imposed*, and they might state the improper multiplication of the mem-

bers of the Session as a reason. In short, this makes the heritors *no worse than they now are;* for *even now* they may be swallowed up by a shoal of new made elders. And what is their redress? Going to the civil or church courts. And would they not have the same remedy for the same evil after your bill was passed?

I shall regret if I don't see you at Glasgow; but I cannot be sure. Remember that I have still to put a few words and detail clauses to the Jury bill. Let me know when you want it. The sooner you bring it on the better. Ever yours,

H. Cockburn.

From Lord Archibald Hamilton.

January 31st.

My dear Kennedy,

It is quite impossible for me to tell you anything, *by which* you *ought* to regulate your *motions*, and you *forget* that London is *yet thin* of M.P.'s. I see no prospect, from talking with those who are here, of much *concert*, nor any chance of procuring a *new* head to our discordant body; but then the warmth of the country gentlemen, even of many of the Tories, will form a new feature in the opening of the Session, and will probably *force* on important discussions *early*.

It is much believed that some species of Income

Tax will be *proposed* and *carried*, though certainly *well-fought*. As to my own views I *must* wait a little for others. I shall no doubt move *something* about the Burgh concern, and shall also again attack our *County* representation, but not this latter for a month at least.

The Review on the Jury Court* is much liked. I have not yet read it, though I am meditating its perusal every day. You will I think find *more* supporters to your bill than last session. I am sorry to conclude my letter without giving you the intelligence you want; but no one here can tell you more. Tierney knows nothing and has decided nothing; nor is it clear that there will be any amendment, though my opinion is that there *will*.

Creevey, Lambton and Co. are not in town, nor Burdett, nor Hobhouse, nor Lord George Cavendish, nor Lord Grey.

Very sincerely, and faithfully yours,

ARCHIBALD HAMILTON.

From Henry Cockburn.

14, Charlotte Square, Edinburgh, 10th February, 1822.

MY DEAR KENNEDY,

Agreeably to your request I have filled up and corrected a printed draft of the Jury-bill, which

* By Mr. Henry Cockburn, in the *Edinburgh Review*, No 71.

I have given to Horner, who is to give it to you. He leaves this for London on Tuesday first, the 12th instant.

You will observe that the additions consist merely in putting in technically some more courts where the bill is to operate, and a new clause about enabling one balloted jury to try a number of cases. This last is the difficult clause. The review suggests a variety of devices for removing the enemy's great objection, that the measure leads to practical inconvenience, by enabling prisoners to challenge away all the jurymen. After consulting fully with Jeffrey and others on the subject, we have all come to be decided that there ought to be no sacrifice of the principle of the thing, such as would be implied in making the right of challenging ever stop, merely because there were too few jurymen, and that the only accommodation that ought to be given, should consist in letting the same jury try all the cases of the *day*, provided parties consent. *In practice*, this will end in making the jury be balloted for the first case, and not again, which will let all the other jurors off till next morning, which is exactly the present system, while at the same time it will obtain all the expected advantages of clipping the wings of their Lordships.

The only thing like a professed answer to the review is in the last number of Blackwood's Magazine. *I believe* it to be written by John Hope; and it is

praised by those who read Blackwood. But it is a poor production, precisely such as I trust the disciples of that school will always be the authors of. The only thing like an error he has detected is our *seeming* to say that in Sir Thomas Hamilton's time the jury was chosen just in the way it is now; whereas he says that in those days they were selected *by the prosecutor*. Now it is a matter of *absolute certainty* that the prosecutor *never at any time* chose the 15, to which chiefly the statement in the review applies; and it is doubtful if he ever chose even the 45. So that his apology for the murders committed long ago, which he ascribes not to the judge's chusing, but the prosecutor's, won't do at all. I have set Thomson a-working to confute him as to even the 45.

Murray and Jeffrey have got up the review in the shape of a pamphlet; I have not seen it. They told me they were to stop it till I could get a postscript or a preface written, in confutation of all that had been urged against us, chiefly by the said Blackwood; but to my surprise I saw it distributing yesterday. This no doubt arose from some blunder, as Jeffrey was keen for a few preliminary remarks, and though not at all required for those who know the subject, they might have done some good to the ignorant.

I do not think any good will come of the motion for the names of those who have lately served on

juries; because unless the return was compared with a list of all those *liable to serve*, it would not show that the same persons had been summoned with unnecessary frequency; and I don't believe that any enquiry could give you those who were capable of serving. If you do make the motion, alter the word "*sent*" to serve, into *summoned* to serve.

We are all well in this town — all in a ferment about our Police bill, to which I, in common with every other person not an absolute slave in this place, implore your attention. Horner will tell you all about it. It was he who induced me to commit the sin of writing a pamphlet on the subject. But really the infamous designs of the Tories here, who have taken this as an occasion to put down the public, are enough to make any man's blood boil.

Ever yours,

H. Cockburn.

Saturday, 3rd March, 1822.

My dear Kennedy,

I send you by this day's mail six copies of the pamphlet; Murray is to send you a quantity more, but I tired waiting for him.

The only alteration in the body of the thing is what is said of Meadowbank on page 97. The remarks on pp. 108 and 109 are to meet an argument which the

enemy, in despair of answering us, have set up to evade us. It is much insisted on by our worthy Solicitor-General, and—I had it from Sir David H. Blair myself—urged very keenly. He told me that he never heard it denied that the present law is absurd when applied to political offences. All the rest is in answer to Blackwood, which the Tories here affect to hold up as a valuable article.

You should contrive to get the bill passed the Commons, or rejected, *before our April* meetings are held.

Our faculty consists of about 307 members. A meeting was held two days ago to vote away the privileges of the body for the magistrates' police bill. There were only 112 present: of these 26 voted *No.* But the remaining 86 voted away the privileges. The notices of the meeting were sent by the *private agent of the magistrates* by letter: a thing never heard of before. Yet when Jeffrey moved that the number of persons who had been summoned should be stated by the Dean or by the Clerk, these 86 voted and carried that *no* explanation should be given. So that 86 have voted away the privileges of 307, without proving that they let their brethren know of what was going to be done. Remember this, if it be ever said in the Committee that the faculty have consented.

Ever yours,

H. Cockburn.

14, Charlotte Square, 11th March, 1822.

My dear Kennedy,

I am glad to learn you are fairly afloat with the bill, and whatever the newspapers may say, I have perfect reliance on your management. Nobody can judge so well as yourself *when* you should discuss it again; but provided this be done before the 30th of April, it seems to me that almost any sacrifice should be made in order to get the aid of the eminent lawyers you mention.

Jeffrey wrote to Mr. Cunningham, the Town-clerk, asking him, since the majority of the faculty, at the late meeting, would not let our own Dean answer the question, who he had summoned. He has got a written answer, stating—1st. That it was he (*i.e.* the Town-clerk) who took the entire management of the summoning. 2nd. That he addressed letters only to such as *he thought* were likely *to be in town*. 3rd. That as he did not know the residences of many *even of these*, the letters to them were left with the gown-keepers, or in other words, were never sent or received. Yet 86, at such a meeting, vote away the personal privileges of 304.

As to Peel's plan for our sheriffs, pray do attend to it, and resist it; for if it be carried there won't be a good sheriff in Scotland. There was a meeting about it on the 8th instant, which was called at the special request of Clerk, Moncrieff, and

Cranston, to whom, on this occasion, were united John Hope, John Forbes, and our hilarious Solicitor-General, and, with two dissentients, we were all unanimous in petitioning Parliament, if that should be thought necessary, by a committee, to whom the business was entrusted, against the measure. The dissenters were Dalziel and Gordon of Craig. There is no intelligent Scotchman who can fail to perceive the objections to the scheme; but unfortunately they are not so apparent to an Englishman, to whom I daresay it may seem absurd that a judge should act beyond his local jurisdiction. But yet the thing may be made plain enough.

You will observe that in England the law, by which I mean the real law, the law of Westminster Hall, is diffused over all the country by being carried into every corner by the judges in their circuits. But it is not so in Scotland, where we have *no civil circuits;* and thus the only chance that the people have of getting legal justice out of Edinburgh is from our sheriffs. Now what state would England be in if her justice was administered, not merely by local judges, but by judges *prohibited* by the necessity of residing in their counties from imbibing law at the fountain-head?

The inevitable effects of this, especially in a small country like Scotland, are these:—1st. The judge, who is generally resident at a distance from the Supreme Courts, to a certainty loses his law. 2nd.

He loses what is of far more consequence, his sense of strict judicial delicacy of principle. He cannot be accustomed daily to hear cases discussed on their pure grounds of justice and fairness; to see stupidity, partiality, or negligence freely exposed; and to feel all inferior jurisdictions subjected to the test of public or professional opinion; and he comes to consider the judgment of his own *district practitioners*, or of his servants, or of his own conceit, as the only check on his ignorance or dishonesty. 3rd. The chance of his becoming a pest is reduced nearly to a certainty when the tendency is considered of every man in power, who lives in a province, to get involved in all the local jobs and prejudices of the place.

Accordingly, the fact is, almost without an exception, that the resident sheriffs are blockheads, or don't act, and that all the good ones breathe the legal atmosphere of the Supreme Court. Would it improve our friend Bell, to force him to associate most of the year with Affleck or Ayr procurators?

A distinction is attempted to be set up as to Glasgow, which it is said has business enough to give full employment to a sheriff. No doubt it has; but for this very reason he ought not to live there, for there is the greater necessity of having him a good judge. To be sure, if they wish to make him a mere police officer, his residence near thieves may be proper. But this is the business of his substitute.

Besides, only think what sort of fellows you will get to take the offices, if such residence is connected with them as interferes much with professional practice! What lawyer, *fit for the situation*, will renounce the bar, and of course by the existing law renounce all hope of preferment, for even £800 or £1000 a year? The future sheriffs, if they must reside much, will consist of those chiefly who have never been able to get, or to keep practice.

Any Englishman, it seems to me, may understand all this, by supposing what would happen if *the Welsh judges* were obliged to spend the whole year in Wales.

I rejoice to see by the papers, and to hear from Horner, that you have aided us so well about our police. The defeat of the magistrates would do more good to the cause of independence here than you can well conceive.

John Clerk left this for London yesterday. They say he is going to Paris. Murray says he means to follow him this week, from which it may be inferred that he won't stir. Fullerton is to be with you in April. Rutherfurd has gone to Bath to be married.

Yours faithfully,

H. Cockburn.

P.S.—You seem to suppose that Peel means only to make the Sheriff of Lanarkshire reside. But we understand that his scheme is to *extend* the residence of ALL the sheriffs.

From Sir James Mackintosh.

Mardocks, near Ware, 16th April, 1822.

Dear Kennedy,

I shall go to town on Friday if your bill be sure of coming on. The levee on that day may perhaps prevent a house, and if this be Newmarket week, as I think I have heard, you will at all events have a thin house. Be so kind as to tell me what your expectations are, for I would not go without necessity on Friday, as I must be back on Saturday.

I hope there is no mischief to be apprehended from the result of Borthwick's trial at Glasgow. Do you expect anything to be said against you that is not substantially contained in the paper ascribed to Hope? I am, dear Kennedy,

Very truly yours,

J. Mackintosh.

From Henry Cockburn.

14, Charlotte Square, 12th June, 1822.

My dear Kennedy,

I have not time to answer all the points in your last letter, but I cannot delay a moment in pointing out to you a practical illustration of our present jury system which (with many other noble lessons) has been afforded by Stuart's* trial. A full

* Mr. James Stuart of Dunearn for a duel with Sir Alexander Boswell.

and correct account of it is to be published here in a few days, and all others are inaccurate.* When you get the right one, you will see that Boswell wrote a letter to Robert Macconochie, saying that he had consulted Meadowbank about a second, and that his Lordship had assured him he might depend on the said Robert. It is said and I believe, that his Lordship had much more concern with this affair, both before it took place and after; but let his connection with it stand upon the letter. Here was a judge making himself a party to a duel. Now suppose that the letter had not been brought to light, and that this case had been tried at Perth, to which district it belonged, and that Meadowbank had been the judge, *how would the picking have operated here?* Sat verbum.

Never was there such a triumph! Never were wretches so wretched as the Crown counsel that day! Never was calumny so put down! Never was truth so fully and beautifully disclosed. I told Stuart last night that he was now the most dangerous man in the world. He has got so noble a character, that if he were to cut a throat every day, nobody would believe it. He behaved beautifully, uniformly firm and calm, but made amiable by some occasional bursts of tears. To consummate the baseness and insanity of his foes, *Borthwick has this day been*

* This refers to a Report of the Trial which was speedily published by Archibald Constable & Co.

liberated, though they actually sent a counsel to attend Stuart's trial only two days ago, to state every hour that they positively meant to try him on Monday next. Just observe the epochs of Borthwick's history.

1st. Employed by the Advocate to print libels.

2nd. On being prosecuted for damages for a libel, gives up the papers in self-defence; having a legal right to do so.

3rd. Imprisoned by Alexander his partner, for theft.

4th. Imprisoned by the Advocate for this same theft, and though he had told he was ready to appear, brought from Dundee in *irons*.

5th. Brought to the bar at Glasgow; but recommitted, untried.

6th. Having run his letters against the Advocate, his Lordship tries to defeat this, by seeming to withdraw, and Alexander is pushed forward again.

7th. Re-imprisoned by Alexander again.

8th. A statement publicly made on the 10th of June, *before the jury trying Stuart*, that Borthwick was to be tried on the 17th June.

9th. Stuart being acquitted, and *no longer capable of being prejudiced by his falsely alleged connection with a pretended thief*, that thief finally discharged in two days.

* * * What worse was done in the days of the

bloody Clavers? Oh, for a short, clear, plain, matter of fact history of the reign of calumny as evinced in Blackwood's Magazine, the Beacon and Sentinel.

Yours ever,

H. Cockburn.

P.S.—I hear now that it is not quite certain that Borthwick is not to be tortured a little longer. Indeed the only authority I had for supposing he was to be liberated was their own word.—But this is not enough. However, the innocence of the man is so perfectly certain and plain, that as a trial is absolute nonsense and always appeared to me to be so, I am satisfied that if not at large to-day, he will be so to-morrow.

P.S.—I have now seen Gibson, and he tells me that Borthwick is positively out. Foreseeing this some time ago, I advised that a statement of the mere facts should be prepared and ready for instant explosion. He tells me that it will be so far ready on Friday that I may get a copy. I shall send it to you by the mail of that day. I am afraid that Borthwick himself has done too much of it to admit of its being good. But it will contain the facts. I have not seen it.

13th June, 1822.

My dear Kennedy,

I expect to be able to send you Borthwick's

statement to-morrow by the mail, but I cannot be sure of doing so. I am told it is very bad; that is to say, that part of it which B. has done, but that the documents are satisfactory.

If a report which is current to-day, but which I cannot as yet absolutely vouch, though I believe it to be true, be correct, they have brought their proceedings to their natural close. Borthwick was seriously setting about an action of damages, and this was well known: therefore (the report is) they have this day got a creditor to apply *to the Court for Sequestration of Alexander, the private prosecutor, as a bankrupt.* Observe the well-timed effect of this.

1st. It renders the action useless; for Borthwick being ruined, can't litigate against a person, who being bankrupt before the decree in the action, would be entitled to pay by saying, "I have got a discharge for one farthing in the £100 of all my debts." We are afraid if we were to prosecute the Lord Advocate as a malicious prosecutor, his office would protect him; and though we had planned joining him as a defender with his friend Alexander, so long as we believed that Alexander could pay, yet the private prop being withdrawn, Borthwick cannot go on. He could afford to go without any real damages, and would be put to no costs for counsel or agent; but the fees of court are so ruinous that he is utterly crippled by not having a responsible antagonist.

2nd. By getting Alexander sequestrated, they get a trustee (of course of their own nomination) put into total or joint possession of the office; and thus Borthwick cannot touch a paper or make any more discoveries.

It is absolutely infamous—downrightly infamous. I hope that Brougham, even though these be Scotch matters, won't refuse to tear that Advocate to tatters.

Stuart is in Fife to-day seeing his terraces and evergreens for the first time since the affair. He is delighting everyone, even my neighbour Pitmilly, with the beauty of his behaviour, which is uniformly modest, temperate, firm, and gentle.

I talked to Pitmilly to-day about the proceeding of introducing Borthwick's case into Stuart's trial to create a prejudice, and then letting him out next day and giving up the charge; and even he seemed shocked.

The Sentinel is of course put down, or must soon be so.

Ever yours,

H. Cockburn.

14th June, 1822.

My dear Kennedy,

I am just going to dine in the country, and Borthwick's statement has not yet come, and I am not sure that it will. However, if it does, before the

mail departs, Mrs. Cockburn will pack it up and dispatch it to you.

I have not heard to-day that Alexander has been made bankrupt; and thus one day has actually passed without any new villany—a rare occurrence. There is a talk of sending Borthwick and a very clever man, Henderson his agent, up to London instantly to explain everything. I hope it will be done.

Yours faithfully,

H. Cockburn.

15th June, 1822.

My dear Kennedy,

Borthwick's statement did not come last night, but I have directed Constable to send you a copy of it and of Stuart's trial by the mail of to-day.

Borthwick, like an idiot, stops at the *first* part of his case, and intends to publish his subsequent treatment hereafter. But this first part contains curious disclosures of names and documents. His "Defences," which begin at page 31, and are signed by him, were written by me. Defences in our criminal courts are generally only a line long; but anticipating what has happened, that they never would try him, and that he would never have an opportunity of unfolding the case in the usual way, I resolved that the court and the public should get his view of it, by putting it on the record as soon as he was indicted. Accordingly these

defences now form the only *judicial* statement which Borthwick has ever been allowed to make.

No new villany this day, only some alleged discoveries of old ones. Yours ever,

H. Cockburn.

Advocate's Library,
Monday, 17th June, 1822, 10 A.M.

My dear Kennedy,

I came here a little ago to try to get expenses off Alexander for Borthwick, but find I have come an hour too soon, which gives me an opportunity of telling you that, so far as this day is yet gone, it has been comparatively innocent. All that has come out as yet is that Moncrieff and I have seen certain letters which passed between Alexander and his agents, and a person of the name of Robertson, who was the pretended creditor at whose instance Borthwick was imprisoned; and from these it is quite plain that the debt on account of which he was hurried into jail was not due, that these worthies *knew* this to be the fact, and that the whole thing was a trick in order to get him out of the office. This was suspected and believed before, but it is curious to have discovered the proof of it in their own letters, where it is plainly spoken of as a manœuvre.

Now can anyone fail to perceive the connection between all these facts and the public prosecutors?

Would Borthwick have been used thus, or would Stuart have been used as he was, if the cases of both these persons had not been connected with the defamatory system, and the public prosecutor with it? The truth is that Borthwick has been imprisoned as a thief and Stuart tried as a murderer, merely because the former gave up papers which the Advocate had an interest, as a libeller, to conceal, and the latter shot the author of the articles by which his Lordship and Co. were accustomed to defame.

The Broad is in vast glory. Broader than ever. Bob Macconochie has got poor Meadowbank into a scrape by blabbing about letters. Ever yours,

H. Cockburn.

P.S.—We have got costs, and have just heard that Mr. Abercromby's motion is to be put off. I trust that advantage will be taken of this pause to send up Borthwick and his agent Henderson.

Have you any remarks to make about the Return (which I have got I suppose from you) of Scottish Jurymen?

Edinburgh, 25th June, 1822.

My dear Kennedy,

I cannot sufficiently congratulate you on your late success, which has been rendered doubly valuable to me by the admirable manner in which I hear from all quarters that the measure was introduced by the

person in whose hands it was. Long may the good of the public be thus united with the gratification of private friendship. The effect here has been electrical. The prospect of improving our system has cheered the faithful, and the idea that Parliament has admitted the possibility of its being improved, greatly discomposed the supporters of abuse. The more reasonable of the latter however are beginning to discover already that the alteration is quite right, and if it were once fixed, all our counties would no doubt thank the Advocate for his patriotism. Sir John Oswald says he will petition against the bill in Fife, though he should petition alone; but the sheriff says he will call no more meetings on the subject. *Ex uno disce omnes.* If the counties stir again we shall to a certainty have petitions in its favour from all quarters. Peel's view is practically absurd. If the judge is to select, it is impossible to expose him to the implied insult of being snubbed in his choice without a reason; and to let the clerk or any such person select, would, in Scotland, be worse than the present system.

Preserve a note, either in your memory or on paper, of the leading objections to your scheme, and if the bill sticks for this season we shall perhaps give these reasons another refutation in the review. I would rather take the peremptory challenge by itself than lose everything. The rest must soon follow if we

get this, and it is of immense consequence to fix, that the present system is not to last. *But don't on any account let the challenge* PRECEDE *the nomination.* It must be a challenge of *named* men. Oh! that I were in your gallery this evening.* I expect more good from what you are to do within these few hours, even though you don't get a committee, than from any discussion in which the immediate interests of Scotland were almost ever concerned. Write me some account of it.

Ever yours,

H. COCKBURN.

1st July, 1822.

MY DEAR KENNEDY,

I entirely approve of what you have done,† and am delighted that you have been able to do so much.

Breaking down the old system is the first step towards getting a right new one. The judicial selection must be knocked on the head next. I don't believe

* Mr. James Abercromby was to bring on his motion for a Committee of Enquiry into the conduct of the Lord Advocate (Sir William Rae) with reference to the *Beacon* and *Sentinel* newspapers. (See Mr. Abercromby's Speech, with Rae's miserable defence of himself, in Hansard's Debates, Vol. lxxxiv. p. 1324.)

† Mr. Kennedy had withdrawn in the meantime that part of his Jury Bill which took the power of nomination from the judges, and limited it to giving the power of peremptory challenge to the person under trial. In this form the bill was read a second time.

it will work, and that the judges will be the first to beg it may be taken from them.

If you have gone so far (as I understand you to have done) as that, you cannot alter easily; let the bill stand as it is. If you have not, there are three things which I think you should attend to.

1. Are you and Richardson clear that the challenging clause is so expressed as that the prisoner is not obliged to make all the challenges he means to make *at once?* If for example I want only to challenge one man, may I do so? and then when the judge shall have filled up his place by another nomination, may I object to this man too, and so complete my five challenges before I submit to the new juror? If I must say *once for all* how many I object to, and have then no remedy for a second nomination worse than the first, the judge may always jockey me.

2. The summoning clause gives no power to any court, *except the Justiciary*, to call more than 45 jurymen. The Sheriff or Admiral could not do so. The clause should apply to all judges who are about to try a criminal case by jury.

3. I don't see the use of giving the Justiciary power to summon more than 45 merely *by act of adjournal.* It requires a consultation and solemn act of the whole Court to pass such an act; whereas the necessity of such summoning may arise in a moment, from the judge who is going a circuit seeing a number of pri-

soners put into one indictment. I think it would be much more handy just to declare generally that the judges may summon more than 45, "according to the mode in which the said 45 are now summoned."

But none of these things are of sufficient importance to justify your risking anything whatever.

I am confident that an attempt will be made to throw an odium on the bill at first, by these worthy deputes clapping an unusual number of prisoners into each indictment, and thus creating a necessity for summoning hosts of jurymen, and by their Lordships abetting this device by requiring the attendance of hundreds of country gentlemen at each circuit. You will see 100 summoned in September to Perth; and hence vigorous resolutions by Sir A. Mackenzie in the county about the oppression of the poor lairds. But let them do their worst.

Is Rae out yet? It is impossible to convey to you an idea of the gratefulness of the relieved people here to Abercromby. For his exertions in the police bill, and lately* we owe him more than we can ever repay. If we had such a thing as a representation here he would be returned for the city by acclamation.

Ever yours,

H. Cockburn.

* For his exposures of the connection of the Lord Advocate and other Government officials with the disgraceful libels published in the *Beacon* and *Sentinel* newspapers.

Bonaly, by Colinton, 15th July, 1822.

My dear Kennedy,

I am rejoiced to learn from your letter (which is the first tidings I have heard of it) that Abercromby has returned to London.*

The whole affair has made a great sensation here. The poor Tories seem dismayed and alarmed, and I have no doubt that the libelling system, at least in so far as it depends on his Majesty's servants, is nearly at the last gasp, and won't be soon renewed. The decided impression among sensible and liberal men as to Abercromby's last proceeding is—1st. That he ought *not* to have allowed himself to be drawn into a personal quarrel by almost anything that people he was obliged by public duty to arraign, could do. 2nd. That if it was Menzies he was in pursuit of, he was pursuing a most unworthy antagonist. The very fact of little Menzies being selected as an object of combat by James Abercromby is an honour which has surprised all his friends, and will set him up higher than Newgate can put him down. But still pugnacity is the safe side for all gentlemen to err upon; and though we

* Mr. John Hope and a Mr. William Menzies, two of the Advocates depute, had addressed letters to Mr. Abercromby in regard to his late exposures, couched in such language as was thought likely to lead to a hostile meeting, and Mr. Abercromby had suddenly left London for Scotland. The House of Commons, on the motion of Mr. Courtnay (a Tory member), immediately ordered Messrs. Hope and Menzies to attend at the Bar of the House.

think Abercromby has helped to establish a bad precedent, there is but one feeling as to his conduct having been marked with that manliness and generosity which has all along distinguished him in these concerns. When I reflect indeed what he has done of late for Scotland, and to what risk he has exposed himself in our behalf, I know not how we can ever reward him. But if it be a reward to do good and to know that the extent of his services is equally attested by the admiration of the honest, and the terror of the base, he has it to the full.

As to the breaches of privilege, their doom will be fixed before you receive this. It is very problematical whether they will yield to their own bad temper and taste, and be insolent, or take the advice of their friends and of their own interest, and be humble; but I anticipate the latter. Unless something strong however is done, this scrape will do harm; for if not put down effectually they will return here as martyrs and be worse than ever. In particular, unless a direct recantation be made *as to Abercromby*, distinct from a general apology to the House, their friends here will be very apt to hold that they have at least succeeded in insulting him. But I do not know if such individual apologies are parliamentary. I trust that Abercromby won't let this personal affair make him think it indelicate in him to go on with Borthwick's case, which would just be playing the enemy's game.

It is said here (but I don't know if truly) that Rae and his underlings are epistolising *at* each other. This shows what may yet be got by going on; for if they quarrel among themselves queer things will be revealed.

This affair has knocked the bill out of my head. Long live the Chancellor! what is doing? The report of his having adopted your entire measure has already made some of its most furious opponents begin to admit that it was all quite right. If it were once passed, indeed, the counties would be the first to applaud it. Let me hear from you soon.

Yours faithfully,

H. Cockburn.

Bonaly, Colinton, 17th July, 1822.

My dear Kennedy,

The Court of Justiciary has just given another attestation in favour of your bill. They have passed an Act of Adjournal, *depriving themselves* of the power of naming the forty-five at circuits. They throw this on the Sheriffs of the districts, by requiring them, instead of sending to Edinburgh a list of forty-five *for each shire*, to send only forty-five *in all;* so that a selection of forty-five by the Court is unnecessary. So far as this is another acknowledgment that the present system is not just so perfect as Rae and his free-

holders maintained, and in so far as it tends to save the characters of judges, it is very satisfactory.

But observe, First. It is a very bad thing to let so essential a part of the law depend merely on the pleasure of the court. It was the court who originally made *each* Sheriff send forty-five, and thus secured the picking of the single forty-five to themselves. It is they who now alter this. But they may by the same rule alter it again to-morrow.

Secondly. I think the improved plan worse than the present one. There was some security (though not much) for the lieges, when judges selected the forty-five, because these were high personages, and though political enough they could not be so avowedly. But what shadow of security have we for the candour and fairness of a sheriff-depute, *i.e.* of his substitute; *i.e.* of his clerk; *i.e.* of any rapscallion in the Sheriff's office?

Thirdly. And you will ever observe that a jobbing Sheriff has no difficult task to perform in returning a partial set of jurors from his county. For none of them are to send forty-five. This is the number to be returned from the whole circuit district. So that no one Sheriff will ever have to send more than fifteen. He must be a very stupid fellow if he cannot pick so small a quantity of folly or of prejudice out of his shire as this.

So that now in a political case, the judge is only to

name the fifteen even at circuits, but to atone for this the forty-five are to be returned by a class of persons more prejudiced and less responsible.

The inferences I draw from this change are that it affords an additional and powerful confirmation of the necessity of carrying your whole scheme, and that it renders Peel's remote views of improving the mode of performing the Sheriff's part of the business infinitely more important than it was before.

I expect an account from you of the appearance made a few hours ago by the gentlemen *at the bar*.

Ever yours,

H. Cockburn.

From Sir James Macdonald, M.P.

Loudham, Woodbridge, October 16th.

My dear Kennedy,

I have been very ungrateful in allowing your kind letter now six weeks old to remain so long unanswered. The truth is that for some time afterwards I hesitated whether I would not take a run to Scotland, but all idea of it was put an end to by a violent inflammatory attack which befel Lady Sophia, from which I am happy to say, barring weakness, she is now entirely recovered. Nothing particular would lead me to Ayrshire in my views of realising, except it were the pleasure of being some day or other a neighbour of yours; at the same time it is a very nice

county, and a *really good* purchase might possibly tempt me. I have taken the step which you counselled, of stating my views to Mr. Gibson and requesting him to assist me in them, for I suspect the agricultural depression is now beginning to make itself felt in North Britain, and the value of land consequently to fall. On the other hand I see nothing that is likely to raise the price of our funds, whereas many events may lower them.

The death of Londonderry, which at first one should have thought must have led to some change of more or less consequence seems likely to have none of the least national importance. Canning, though I do not believe he likes our liaison with the Holy Alliance, will not venture to take a line of his own; he has had so many misadventures, that he will run no risk of again unseating himself by counteracting the Duke of Wellington and others of his colleagues. Had it pleased God to remove from this world the great Captain of the age also, the aspect of affairs would have been different; for a few hours they considered him gone. Canning's abandonment of the Catholics, announced in his Liverpool speech as a peace-offering to Peel, is one of the most profligate acts I remember in any public man. The King told him he looked to the future, not the past, and hoped to find him treading closely in his predecessors' footsteps—this to the high and mighty Mr. Canning! His aim at present

is to prevail on the Directors to appoint the Speaker Governor-General, in order to get the chair vacant for Wynn and turn him out of the cabinet. In that event I think we ought to propose either Holmes or Swann against him. I trust Mrs. Kennedy is gaining strength. Yours ever faithfully,

J. Macdonald.

From Henry Cockburn.

Edinburgh, 21st December, 1822.

My dear Kennedy,

I am requested by the Committee for arranging the Fox dinner, which is to take place here on the 13th of January, to ask you to act as a Steward, which you have never yet done. Mackintosh is certainly to preside, and Cranston probably to be croupier; and in other respects you will be in good company.

I am aware of the annoyance of leaving one's fireside for such purposes, and cannot without a pang ask any country gentleman to forego the pleasures of seeing his acres, even for a day, in these times; but I really think it is your duty to accept. These meetings, in Scotland, where we have no other regular convocations, do immense good, and have prodigiously awakened public spirit within the last few years, and no well-disposed man, especially if he be in Parliament, ought to invent, or to take, any mere pretence

for avoiding them. It won't occupy at most above three days.

Let me hear from you immediately, as the Stewards must soon be advertised. I shall be much mortified if you yield to laziness, and say No.

What do you propose doing further about the Jury bill? I hope you design persevering till the ballot be gained. If you intend to move again next session, I should like to put about five pages more into the Review; for at present the matter is in a very bad state, and the nature of the defect, could, after what has been said, be very easily explained. Ever yours,

H. Cockburn.

Edinburgh, 25th December, 1822.

My dear Kennedy,

As to the Fox dinner,—I hereby repel all your objections; which are singularly feeble. If you be a public man, we require you as such; but if you be not, we need you the more. The very use of these meetings is to indicate the opinions and spirit of private men, whose views are otherwise never heard of. Upon your notion, who would act? Are Leo. Horner, Moncrieff, Alexander Young, W. S., or Scott, the apothecary, public men in your sense of the word? or Lord Minto or Admiral Fleming? You shall therefore be advertised in all probability,

and if you be so, I trust to yourself for your appearing and doing your duty on the day appointed.

As to Abercromby,—I wrote him fully a few days ago, and have heard from him since. He is to be in Edinburgh about the 4th or 5th of January. He is coming by Carlisle to Glasgow, from thence to his brother's at Tillybody, and then here. I was too sorry for the annoyance our poor Scotch affairs had already given him, to urge him to go on with Borthwick's case, so I only communicated the fact, that the interest of the affair, though it was less talked of, was not impaired, and that all parties remembered the last discussion and anticipated the next. I advised him, however, not to chain himself to the stake for us, but to be guided solely from the consideration (of which he alone could judge) of what was due to himself as a Member of Parliament; adding, that his totally abandoning the affair, would not deprive him of one particle of the gratitude which he had gained from all liberal men in this country. On this statement he seems resolved to act on his pledge of proceeding; and I have no doubt that his visit here is partly to get information. His being here is an additional reason why you should appear on the 13th, for you will of course come a week before that, and help us to entertain and instruct the worthy member for Calne.

But these matters are as nothing compared to what

you say of yourself. I don't know that I ever read an intimation with greater regret than that in which you disclose your intention of ceasing to be Parliamentary. I do sincerely hope that the project is not irrecoverably fixed; for nothing can be more certain than that it ought not to be adhered to. It is melancholy for us that even one should be taken from the slender number of efficient Scots members,—but particularly so that this one should be you. There will probably be no session for many years in which some effort will not be made for the improvement of this part of the kingdom. It was therefore of immense consequence for the public that there should be one person in the House acquainted by birth, habit, or education with Scots affairs. The Jury Bill is a fair example. I don't know what you may profess,—but I believe, that that measure would not have been carried if your present scheme had beset you a year ago. Brougham disdains us; Maxwell is ———, Abercromby and Mackintosh require great instruction on our matters, which besides are not in their natural path. Hume, Fergusson, and Lord Archibald are ignorant, and, on these subjects, slight; so who have we? But our loss, great though it be, moves me less than yours. You seem to feel the step you are planning as a temporary one. If it take place at all, I trust it will prove so; but I have not the slightest expectation that it will. A man can neither dally

with Parliament, nor with his habits, nor with time. You will become a mere Ayrshire gentleman before you know what you are about. What this implies, look round you, and you will see. You have not a conception at present what two or three years of spiritless, unintellectual residence there will do for the understanding, the taste, and the temper. If you had been born and bred a clod of a Dumbiedykes, it might have done very well. But any young man who has known higher things, and renounces them for the purpose of pacing over his own acres, and giving the law to his own people, must either degenerate into a fool, or a tyrant, or both.

As to your reasons for this fatal design, I can speak of them plainly without the presumption of knowing or of meddling with your private affairs. I dare say living with an establishment for half the year in London must be a severe addition to the calamities of the times; and you obviously assume this to be necessary. But how it is so, I cannot see. How many members are there who leave their families in the country, and only run up themselves when their presence is necessary? To be sure they don't do so much good as if they were always on the spot. But is this any reason why they should do none? I am satisfied that by little occasional visits, not exceeding a month or six weeks in all, performed by yourself, you might do a deal of public good, without any

private loss, and to your own complete personal salvation? I know that you will demur to leaving Mrs. Kennedy to rusticate, and in ninety-nine cases out of a hundred this is the consideration which leads to such resolutions. But if she knew, as well as your other friends do, how necessary your remaining in Parliament as long as you can, is, to your happiness and respectability, she would be the first to abjure this claim, and if the thing were stated to her distinctly, she would see it exactly as everybody else must. If you should say that your fortune will not even permit your absence from home, or your residence in London, occasionally and humbly, I ask you if you seriously mean to shut Parliament against all those who are not richer than you? What does Mackintosh do? The idea is absurd; and it must be owing solely to some vague notions of magnificence, that you can indulge it at all.

Thomson on my telling him generally that I had had a letter from you, instantly opened on this subject, and I wish you heard what he said. He promised to remonstrate in writing, but I presume this as usual with him, will be some years hence. But he perfectly and powerfully concurs in what I have said, and is particularly fierce at the idea that if you could otherwise go to London occasionally you should hinder yourself, or be hindered from doing so, by the mere silly unwillingness of parting from your family and

home pursuits for a fortnight now and then. I don't believe that any friend you have can approve of your scheme. I assume in saying so, that you have consulted Wishaw and other sages in the south, and that they don't absolutely say No. But they know nothing about the matter. Nobody can, who does not know you out of London, and the effect of five years residence in Ayrshire. I would lay my life that in ten minutes I would convince Wishaw that the plan was absolutely ruinous.

So you will find ere you are aware, and after it is too late. If therefore there be any opening, even a chink, left, I implore you not to close it. You are doing a thing which is to affect your whole life, with all its plans, and views, and habits. Excuse the plainness with which I have remonstrated. If I cared less for you, I should have said less about it.

Mrs. Cockburn desires to be remembered to Mrs. Kennedy, in which I join. Oh, that I had half an hour's free talk with her on this cursed and nonsensical project. Ever yours,

H. Cockburn.

Edinburgh, 4 Jan. 1823.

My dear Kennedy,

I came home to-day from Glasgow, I saw Abercromby there yesterday, he is to be here on

Tuesday, and is to dine with me on Wednesday, and the object of my now writing to you is to request you to do the same. Of course I will not expect to hear from you, but do appear about six.

Of Mackintosh's installation,* it is safer to speak than to write. But to you I may say what I would not at once admit to everybody, that his oration was an utter and inconceivable failure. I cannot tell whether the conception or the execution of it was worst. It has baffled all my speculative powers to discover how such an absolute want of tact and of effect could be evinced by such a master. I went after it was over to Cumbernauld with Thomson and Murray where we staid till this morning. When we first met in the room with Flahault and others who had been there, we seemed each afraid to look the other in the face, lest we betrayed unfriendly symptoms towards the Rector's effort.

I am sincerely rejoiced that you have resolved to give yourself a year's probation. We must have a long talk on this when we meet, but I must bespeak all your patience and good temper; for I am afraid that I have said, and may again say many things on subjects or feelings too sacred and personal to be touched even by a friend.

Ever yours,

H. Cockburn.

* Sir James Mackintosh had shortly before been elected Rector of Glasgow University.

Edinburgh, 13 February, 1823.

My dear Kennedy,

Duncan Chisholm is a solicitor at Inverness, and I believe a very respectable person. He is wrong in both his grievances. 1. He thinks it cruel that a pauper should remain ten days in jail without aliment, though he be entitled to it. But any shorter period would be too short to enable the creditor to inquire if he be able to maintain himself. 2. He thinks it absurd to ask a debtor who is so poor that the creditor is obliged to aliment him, to grant a formal disposition of his property. But he does not advert to this, that debtors very often have property, which is not instantly convertible into money, within their reach. These persons therefore must be maintained by the incarcerator ; but this is no reason why the person getting the aliment *in the meantime* should not first dispose his latent property. To be sure in the case he states there was plain illegal oppression. Because *two* persons confined for one debt, *who had nothing*, were still obliged to sign a conveyance. But *the law* does not require this. It is the magistrate's duty to dispense with the disposition where he thinks it useless, and he ought to have done so in that case.

However your simple answer to Duncan is this,— There must be a new bankrupt act this session, and

our friend George Joseph Bell has prepared one. This matter falls directly under that statute. I have shown Chisholm's letter to Bell, and if any remedy be required he will suggest it. Duncan cannot require more than that you should have submitted the matter to the very Lycurgus of insolvency.

I rejoice in the plan you have formed for yourself this session. I am sure that you will never repent it, especially if you take the occasion to return home again under a system of severe retrenchment, which in these times a gentleman may do to any given extent, and only improve his credit and his character for sense and honour by it.

I rejoice also that I have sent a very short article to Jeffrey about juries, which will explain the effect of the late changes, and the undiminished necessity for further improvement. As it is necessarily shoppish, I am not sure that the critic will think it worth printing ; but if he does not I shall explain to you the views. I shall send you a draft of a bill in due time, but we must first resolve whether we are at present to push for more than the destruction of the judges' selection.

Again I rejoice in Brougham's speech,* and still more in a letter I had from Abercromby praising it highly and without qualification. It must have been a noble oration, and will do much good.

* On the motion of the address on the King's Speech.

I rejoice moreover in having been able yesterday to give so satisfactory an answer to another letter from Abercromby, who wrote begging me to get some intelligent young Advocate here, to write an exposition of our Scotch teind system for the approaching discussion about Irish tithes. The answer consisted in making Jeffrey send him by return of post, several copies of an article on that very subject written by Rutherfurd for the next review. It explains our system, but it won't give much relief to the English or Irish, for they have been too late by at least a hundred years in beginning. The valuation is the relief with us ; but it is so only by the lands having been valued *long ago*. A valuation now in a dear age and improved country, would do the land no good.

I most heartily rejoice in its being this day announced that the Advocate-deputeship, vacant by Hope's promotion, has been given to Alison, a Tory, but an excellent person, and utterly free of all defamatory filth. It is good that he has got it, and still better that the base who gaped for it, have been disappointed. We owe this to William Murray Borthwick.

I further rejoice a little that the said Solicitor General went this day to London, for his being there implies that he is not here ; he has gone on professional business and Thomson follows him on Saturday first.

I rejoice most cordially in the defender's plight in the action of damages, James Gibson versus J. D. Cheape. The latter in court t'other day offered to get Gibson's claim for £500 damages against Stevenson and for costs, and for costs hitherto incurred against *Cheape himself*, all paid, as a legal ground for getting the action dismissed quoad him. Says Gibson, "pay me that money *simply* and I shall treat with you judicially." "No," says Cheape, "if I do, it will be held by the world that I own myself the editor of the Beacon—else why should I pay costs? But I shall *put upon record* this explanation, that though paid for me, this is done by Stevenson on the ground that I had nothing to do with that paper and have been unjustly accused." "Then," says Gibson, "if you assert that, I shall go on and prove against you." Cheape persisted in putting the statement on record; on which the Court (Jury) decided against him, finding that in consequence of that statement Mr. Gibson was entitled to go on. And so his offer to pay under Stevenson's name, *i.e.* a plain confession of guilt stands against him, and yet he does not get the benefit of it, and Gibson will keep the thing over his head a year longer if he pleases.

I rejoice greatly too, that our Fox dinner is beginning to produce its natural fruits. The citizens here are organizing a great public meeting and petition to Parliament for a reform in the representation of this

particular place. It will make a great impression over Scotland. I suspect that I shall be obliged to write, and to let it be printed, a short exposition of what they should seek, and how, and why. If you have any curiosity to see the lucubration, should it be found necessary, I shall send you one. Horner won't be here. He goes to London with Thomson. David Ramsay is very active, and very judicious.

Lastly, I rejoice that I am now done with boring you. Mrs. Cockburn unites with me in kindest respects to Mrs. Kennedy. Yours faithfully,

H. Cockburn.

Bonaly, 1st May, 1823.

My dear Kennedy,

Your letter of the 27th of April reached me to-day. I shall attend to all you say about the Jury Bill, and send you a copy fully corrected the instant that I either hear from you, or see by the papers, that you have not failed on the second reading. I abstain from doing so at once, merely because as Peel only listened and was dumb, I presume he means to oppose, and that therefore you won't pass that ordeal.

The Inverness jury is (I understand) a subject of great delight with Advocates depute, and the like. I don't believe that Alison, the depute there, was concerned in any conspiracy, because I hold him incapable of it And perhaps even Menzies meant only to

prevent his clients from being tried. But why Alison did not prevent what happened by only taking up the charge against four, instead of five, of the prisoners, I cannot comprehend. But you are quite right that the true view of the case is to suppose everything pure, and that there had been no power to challenge. In what situation would the parties have been? Especially, in that case which was one subject to popular prejudice,—relating to what is called the violent settlement of a minister. Besides, the Lord Advocate was wrong to put six panels into one indictment, and thereby exposing himself to thirty-five challenges, without moving the Court to summon more jurymen.

There are a few other Scotch matters a-foot now, to which it would be very useful if you would attend.

1st. The scheme about the appeals,—subjecting us to Charles Hope, is horrible. I don't believe that anything will very greatly diminish appeals; because the temptation arising from the chance which is given by the intervention of a new Court is irresistible, especially when that Court must be a foreign one. They would appeal from Pekin or Paris to London, and *vice versâ*, if they could. The great problem therefore, is to lessen them by diminishing this mere accidental chance. I can't conceive any way of doing this except by first giving us good judges here, and then controlling them by a vigorous House of Lords

really operating as a control. The first diminishes the temptation to appeal by giving confidence to the parties and the Court above, in the judgments that are pronounced here; and the second increases this confidence by affirming judgments which will generally be found right, or by correcting them authoritatively when they happen to be wrong. But when the Court below is so bad that nobody cares how the judgments stand, and the Court above has so little sympathy with it, that it sets its decisions aside, apparently for the mere pleasure of doing so,—it is easy to account for the multiplication of appeals. Under a right system there would be fifty to one against a reversal, and appealing for delay would be knocked on the head by disposing of the appeal at once, and by always giving proper instead of nominal costs. But to imagine that the evil is cured by sending up *any* common Scotch judge to London, with all his local prejudices operating, *but not seen*, is ludicrous. And if this system once begins it may be Sandy Macconochie's turn next to crow on the Woolsack. If anything of this kind is to be done, Brougham's plan is, on many accounts, far better. For the great thing is to rescue us from the jaws of *one native*, permanently acting as the House of Lords, to us. If it be possible, I wish some weighty man would pound the Chancellor or the Secretary of State with the fact, that (so far as I know) there has not

been, with the exception of Alloway and Gillies, a single judicial appointment for the last thirty years, except on purely party grounds.

2nd. Mr. Williams, I see, has given notice of a bill to enable Quakers to affirm in criminal as well as in civil cases. Any man will get the benedictions of Scotch Quakers who will make this extend to Scotland; for they are used like brutes when they come into our Criminal Courts. Look at Hume's Criminal Law, (Edit. 1819, Vol. 2, p. 363, or old edition, Vol. 4, p. 187), and you will see in one paragraph how our law stands. He says, that in Stewart's case the Quaker was *set aside*, but he was also nearly sent to jail for not swearing.

3rd. Mr. Peter Moore has given notice of a bill to put an end to the Combination laws. For God's sake, don't let this slip; for this is one of the subjects on which our Scottish judges, high and low, are crazy. Macculloch, of the *Scotsman*, (who I believe is now with Ricardo in London) always promised to write a review on the subject. But look at Hume, (Edition 1819, Vol. 1, p. 488, the old edition has nothing about it), you will see that in 1808 the Court of Justiciary held combination to be no crime at all; but that in 1813, having taken a new view of political economy, they found that it was a crime, and actually went the atrocious length of punishing it by eighteen months imprisonment, and surety to keep the peace

for three years; though at that moment the English Law only allowed it, though it be a worse offence in a more populous and manufacturing country, to be punished by imprisonment for three months. Lord Gillies once expressed a doubt on the bench whether the English Statute did not apply to Scotland, but this has never been decided, and I don't think it does, and am certain that the Court will never hold so. Now surely if Parliament shall declare that combination is to be no crime in England, it would be absurd to let it remain an eighteen month jail crime in Scotland. It is the more proper to attend to this, that Macculloch told me he understood that Ministry was not to oppose Moore's bill, which was the measure of the masters themselves.

4th. The Advocates' two bills about the Sheriffs and the Commissaries, contain some curious and alarming clauses. But the best way of explaining these will be to send you the bills with a few marginal notes, which shall be done soon. In the meantime, and in answer to one of your questions, I tremble at any extension of jury trial before our County Courts, so long as the Sheriff has so much to do with the manufacturing of the jury.

5th. The Scotch Sedition Punishment, I believe I already wrote to you about.

Of these various matters the first and the last are the most important. The second and the third the

ones on which I should think success by far the most probable.

I trust that Abercromby is got over with Borthwick, for it must have been a most painful subject with him. But he has done immense good; and though he may be outvoted, cannot fail.

Pray was your information about Peel's enquiries and illumination here, so private that it cannot be communicated? My finger ends are itching to know some of that curious history.

I shall expect to hear from you as soon as your second reading is over. Yours faithfully,

H. Cockburn.

Edinburgh, 8th June, 1823.

My dear Kennedy,

I congratulate you on the Scottish Parliamentary work of last week.—The Division about Reform will raise the spirits of the faithful, and the one about Borthwick operates as a restraint on our crown officers for a hundred years to come.*—The latter affair has

* Lord Archibald Hamilton's motion that the House would early in the next Session take into consideration the state of the county representation in Scotland, with a view to effect some extension of the votes, had been defeated by the narrow majority of 35—the numbers being—For the motion 117; against 152. —Mr. Abercromby's motion "that the conduct and proceedings of the Lord Advocate towards W. M. Borthwick were unjust and oppressive" had been defeated by only 6 votes.

made a great impression here. There is but one opinion, even among the enemy, as to its being an undeniable and signal defeat.—We can never repay what we owe Abercromby. Brougham seems to suppose that Rae must resign, but you will see him speedily made a judge, and his late depute promoted from his Solicitorship to be Advocate.—God help them all.

I begin to be anxious about the Jury bill.—But the immediate purpose of my writing to you is to beg you to do something, or to let us know something, about the Advocate's bill for the Sheriff courts,—on which I wrote you in April. A great alarm has been excited here about it within these two days, because it has transpired that he really does intend by enabling the Sheriffs to try all offences "*not inferring death or demembration*" to *transport*, while at the same time he cuts off all appeal to the Justiciary except on legal objections *stated in the inferior court and minuted at the time.* This subjecting the lieges *for the first time*, to the local folly of 45 Sheriffs and their 45 substitutes scattered all over the country, whereas now there are but seven individuals in Scotland who can transport, has excited such horror that if there were time a public petition would be sent up against it. But we understand that the bill has passed the Commons. In this situation Moncrieff, Murray and others have written to various people, such as Lauderdale, &c., to bid

them put a spoke in the wheel in the Lords. But Rae's friends again say that these doubtful clauses have been left out ; which just confirms us in the suspicion that they have been kept in and probably made worse.

Do let us know what the facts are. If these bills pass a very perfect scheme of slavery is prepared for this country. Ever yours,

H. Cockburn.

22nd June, 1823.

My dear Kennedy,

I saw the protest with some of the names in Thomson's hands this day ; but when it will please Cunctator to dispatch it, God knows.—I do trust that the bill will pass, were it merely, from the value of the objection to it, which is that it is the beginning of encroachments on the feudal system ; for if this be true, what can be said more in its praise ?

As to withdrawing the Jury bill, you are the best judge. I should think that it would be far better to withdraw it for this season, (explaining the reason why) than to expose it to a victorious majority of hostile votes. Next to your succeeding, is your not failing. As long as the thing is open, it is attainable ; but if it were triumphantly outvoted, I should fear it would be closed for ever. But nobody can judge of this so well as you, particularly of the effect which the

late discussions on the Sheriff of Dublin are likely to have on it, at this moment.

The rejection of the Beacon appeal by the Chancellor will do much good here. They calculate on the brass of old Conscience.

The citizens here are setting a-going a Spanish meeting. Ever yours,

H. Cockburn.

14, Charlotte Square, 24 June, 1823.

My dear Kennedy,

Hip ! hip ! hurra ! ! I have not heard such tidings for a long while. I cannot now allow myself to think it possible that you can fail ; but of course you will be prepared with the faithful for the third ordeal. I cannot discover whether it is the ballot clause, or the clerks' nomination one, that you have carried, or proposed to carry.—I hope the former ; but either will do. The great thing is to knock the old bigotry on the head. Let me hear all your future operations.—After all, the most satisfactory reflection in all the Scotch labours of this excellent session ; at least the reflection, which gratifies me most, is personal to yourself. I am sure you must be satisfied now of the good you have done by not deserting the public post.—How far the session has raised you, you are not the person to whom it is decent to say.—But be assured that there is not a dissentient voice among

liberal men here, that if you can secure a permanent seat, and go on, a long vista of honorable usefulness is opened before you ; and you know that there is nothing which Scotland requires, in order to secure that course of emancipation in which it is to be hoped that she has begun to advance, so much as her having in Parliament, were it but one man interested in her welfare and acquainted with her affairs. So persevere, and arrange your matters in such a way as to prevent all recurrence of the idea you once had.—The Beacon proceedings have made a number of respectable persons of high station, look very black here for some days. Ever yours,

H. Cockburn.

P.S. Rutherfurd who has just come in, begs to be remembered to you.

From the Earl of Lauderdale.

12th July, 1823.

My dear Sir,

Your bill was last night thrown out, and in my humble opinion it was the strongest measure that I ever recollect.

I was aware of the intention, and in consequence argued it to make it as far as I could impossible for them to throw it out on the second reading. For this purpose I stated it to be a bill that had two objects, the one to make law the regulations adopted by the

Court of Justiciary in their act of adjournal and circular note, the other to take away the discretionary power of naming the jury now vested in the judge, which I argued was inconsistent with peremptory challenge by quoting the Chancellor's authority when the bill was before the House last year.

I stated the whole provisions of the bill, with the exception of those contained in one clause, to relate to the former object; and that therefore all those who were not of opinion that a written note of recommendation to the Sheriff was better and more binding than an act of Parliament, ought to vote for the second reading of the bill, as the Committee would furnish them with the regular opportunity of moving to omit the clause with regard to the ballot. On a division I found, however, I had made no impression on any man except Lord Redesdale who voted with us, declaring the opposition to be too bad.—Melville went the length, in private, of telling me, that if a bill was brought in to the same purport next year, omitting the clause concerning the ballot, he would himself support it. It was in vain, however, notwithstanding the admission, that I urged that he had this in his power, at present, by simply moving to omit that clause.—My friend the Chancellor would not say one word ; he made an admirable speech in Lord Fife's case ;—I am sorry for the consequences, I must say I think him perfectly right. Ever yours,

LAUDERDALE,

From Henry Cockburn.

London, 25th July, 1823.

My dear Kennedy,

I have just got your letter of the 15th. I don't think that your endeavours have by any means come to nothing. On the contrary, the carrying the thing in the Commons twice has advanced it a prodigious step, and I have no doubt whatever of ultimate success. I think the proposal of petitions in favour of the bill extremely problematical. Because those base hounds who form the majorities at what are called our county meetings, would to a certainty send up a greater number of petitions against it. You must fight on in Parliament therefore without ceasing, and without despairing. The measure may be varied so as to remove some of the objections. But it is impossible to give up *both* the ballot and the alphabetical lists. If we had the ballot, the lists would be comparatively immaterial; but if we have it not, I know no other way of preventing packing than by the alphabetical arrangement. We may consider the propriety of leaving out *one* of these next session; but *both* we cannot.

Jeffrey and Richardson and old Wilkes and I leave this to-morrow morning for Ostend, and don't mean to return till we have seen Venice. I regret extremely being absent when Brougham and others are in Edin-

burgh; but the opportunity was tempting. Alexander *is* a commissioner, but so is Courtenay. I wish they may do any good. If you have influence with any of them instruct them not to lair themselves in our forms of process, which they can never understand, but to look to three general and ultimate points. 1. The extension of jury trial. 2. The diminution of written pleadings. 3. The proper nomination of judges. By sticking to these they may do us great practical service; but you need not let out that *nothing* except a positive or virtual prohibition, will very greatly diminish appeals. Wherever there is a chance of the variation of judgments by the intervention of a fresh mind, there there will be appeals in abundance. There will soon be as many from Ireland as there are from Scotland; and if the Court appealed to were quite different from that which pronounced the judgments below, there would in one year be a deluge of them from England. So they are not owing to our law or to our forms, but to that *hope* of reversal which no change that allows the appeal, can ever undo. Yet much may certainly be done to lessen this hope by making decisions more authoritative. My great fear of the Commission is that they may very easily get every abuse supported by the evidence of persons who, though known to be fools or knaves, hold respectable offices and imposing designations.

We expect to be back early in October. I have seen Abercromby, and have communicated with him on the Commission. Yours faithfully,

H. Cockburn.

From the Rev. Dr. Chalmers.

Glasgow, September 20th, 1823.

Dear Sir,

The communication wherewith you have honoured me arrived yesterday, and my thoughts have been directed ever since to its most important subject. I am no judge of legal phraseology, but I think that you have perfectly embodied the views that you stated in conversation, and in all which I most thoroughly concur. My fears are not regarding either the soundness of the views, or the practical success of them, after they have passed into an enactment, but they regard the future abuse and opposition, which I fear might be excited by the promulgation of them. Of this, however, you are greatly the better judge, and I was glad to understand from you that the House of Lords may not be so impracticable on the subject as I was led to apprehend.

Perhaps you might have wished me to return the copy of your draught, in which case, if you have the goodness to let me know, I shall do it. But I should like to feel the pulse of some of my brethren regarding it, and I have, therefore, retained it for a few days.

The only clause that I have marked relates to that initial part of the arrangement, by which it is provided that the minister and elders shall be bound to exhibit to the heritors a statement of their funds, and make it appear that they are exhausted in the dispensation of aid and relief to persons receiving aid before the passing of this Act, in order to make it incumbent on heritors to meet for the purpose of assessing themselves as aforesaid. I know not whether you intend that the heritors shall provide only for the excess of the old cases, and so leave the Kirk Session full handed with paupers up to the present amount of their revenue, or that the heritors shall take off all the old cases together, and so leave the Kirk Session full handed with their revenue, and leaving no paupers to provide for at all in the first instance, but only in readiness to meet the new cases. I see such difficulties in each of these arrangements that perhaps it were better to leave it as a matter of discretionary arrangement in each parish. For you will observe that in Scotland the assessment has made all varieties in progress. In some parishes the assessment is to the collection, as £300 to £10, in which case the minister and elders might be violently against a plan that would not leave the small sum completely disengaged at the outset of an undertaking so formidable in their eyes, as that of reducing the overgrown pauperism of such a parish. In other parishes where

the assessment has been very recently introduced it might be in the ratio of only £10 to a collection of £30, or £40, in which case I can conceive that the heritors would with equal violence oppose an arrangement by which the session should be altogether relieved, and their own burden be suddenly increased from £10 to £50.

I am sure that if you carry this bill each parish that comes under the operation of it, will succeed in driving away its pauperism, and recovering a far better economical condition for all its families. The result in this way will be greatly beyond the most sanguine anticipation, but the evil now is, that this is not the general understanding of the clergy in our border parishes, and I fear from that quarter a shout of most vehement clamour and opposition. You however, with your experience in public business, can calculate the effect of this more accurately than I can ; and I would therefore merely suggest whether you think that the *permissive* process which I have ventured in my 14th number to recommend for England would not excite less of prejudice and alarm even for Scotland, in which case all the provisions of your bill might forthwith pass into a law for every parish of Scotland not yet assessed, and in reference to those already assessed that each Parish shall have the benefit of your act, on a majority of heritors, and a majority of the Kirk Session consenting to come under the pro-

visions of it. It would thus raise at the very outset an insuperable barrier of protection for all the unassessed parishes, and leave the assessed to work back their way to a right state in that piecemeal way that would create no alarm or disturbance. A few instances of success would cause the reformation to spread very rapidly, and I have no doubt from the influence of the great residing families, our ministers and Kirk Sessions, that a very competent number of border parishes would come forth at the moment of your act having passed. But though I say this, yet I should rejoice that your bill were made imperative at once throughout the whole of Scotland. I should have no fear of the result after the enactment. My only fear is lest the enactment be obstructed by any premature alarm.

I had very great pleasure in the answer of Mr. Brougham on the subject of pauperism. I do hope that his prompt and powerful understanding will be given to the subject.

I have the honour to be, dear Sir,
Yours with much esteem and regard,
THOMAS CHALMERS.

I repeat that from the notices and remarks which fell from Mr. Brougham, I have the utmost confidence in his discernment on the subject of English pauperism, but that at the same time there could not be a more

powerful auxiliary to this now general cause than a well devised process for the recommitment of our Scottish parishes to a natural state; and I trust that you will never remit your labours for the improvement of our own country, both in regard to its economics and its jurisprudence.

From Henry Cockburn.

Bonaly, Colinton, 16th October, 1823.

My dear Kennedy,

Many thanks for your inquiries after my bodily condition. The Lord, as the Presbyterians say, removed his hand from me for four days at Geneva;—but I soon got better, and am now perfectly well, except that I got cold crossing the water last Saturday to go to Stuart's, in a torrent of rain, and have been in bed (from which I write) ever since; but I have this forenoon accepted of three invitations to dinner for next week; so you see I apprehend no immediate danger.

The Commission* is doing excellently. They have already voted the abolition of at least three-fourths of all the writing in the Court of Session, and they all profess to be, and a great majority of them really are, sincerely in favour of jury trial. There has been a

* The Commission of Inquiry respecting the forms of Legal Procedure in Scotland.

very great run at this last institution by its foes, under the pretence of only attacking the Jury Court. But as they all *profess* a love of the thing itself, their admission of that principle will be taken advantage of by the Commission, and their true plot will fail. There have been some precious opinions given. But everything is quite safe, I believe, with the Commission ; the decided majority there being sound. Cranston is paying great attention to it ; and the Englishmen are all right. It is said that the latter are perfectly aware of the men they have to deal with. If so, their being sent here may do more good than was meant. But I am not aware that they have been spoken to at all about the nomination of our judges. It is a delicate thing speaking to them privately on a matter which they may think is an application by Whigs to be promoted ; and it does not fall within the sphere of their Royal instructions. But it is a great pity they should go away in ignorance on this vital point. I have seen none of them but Courtenay, who seems a fair, candid, intelligent man ;—I had a long talk with him at Raith, where I corrupted him all that I could ; —was delighted to hear him talk so sensibly about your bill ; though his having been present at last Glasgow Circuit rather *abated* his dislike of the judge's nomination. But I explained to him that there were no political cases tried. This bill *must* be renewed, and every session, till it passes. We shall plan more about

it hereafter, but I doubt if we can make it better than it was.

I think that Chalmers' Poor scheme, if it could be accomplished, would do excellently. But I fear that neither the heritors, nor the ministers and elders, will ever agree to divide the difference in the way he proposes. He ought to explain himself in a review, and then let the measure be fairly brought forward. His Civic Economy, though the most useful work in our days, does not explode so publicly, or scatter so widely as a review. The omission of Abercromby's name was very wrong and very distressing. But I have immense reliance on his good sense.

I hope you are to be in town soon. Best respects to Mrs. Kennedy. Yours faithfully,

H. Cockburn.

From the Earl of Minto.

Minto, 1st February, 1824.

My dear Kennedy,

I have just received a letter from Dr. Chalmers, with your draft of a Scotch Poor Bill, and have written him so long an answer that I have neither time nor strength of finger left to say a great deal to you. My notion is that the country is now prepared for a more decisive measure than it would have been

discreet to propose when you brought in your first bill, and that you might venture now to put an end to all power of assessment except so far as may be necessary to carry on the old cases that have grown up under the existing system. For as long as any system of assessment is maintained, I do not expect to see any material abatement of pauperism. Its progress however may certainly be retarded by some such measure as yours, and even this is worthy of an effort.

I am not fond of the expedient you have fallen upon to obviate the mutual jealousies of the Clergy and the Heritors. The establishment of two distinct rival administrations would, I am sure, prove inconvenient, and would render it difficult to conduct any connected system in the parish, and I see great advantages in the joint administration of the Kirk Session and Heritors.

You must remember that in most assessed districts the Clergy are prejudiced in favour of assessments, and that there is in country parishes neither intelligence nor concert enough amongst the heritors in general, to provide for any minute superintendence on their part, and I should apprehend from your scheme that instead of one poors roll, we should have two; that a great proportion of the poor would be withdrawn from under the charge of the clergy, who after all are the best hands in which they can be placed

—and that the clergy would administer the Sessional funds profusely, from the knowledge that there was another body with its distinct fund on which all the surplus of pauperism might be discharged to take its chance of relief. I wish you would reconsider this part of your plan.

What I would suggest to you is, that leaving as you propose to the Kirk Session the exclusive management of the collections, &c., &c., and to the heritors alone, the power of assessing themselves; that in all parishes in which assessments are resorted to, the heritors should sit and vote with the Kirk Session as constituent members of the meeting at least so far as regards the application of the funds levied by assessment. The heritors, thus reserving to themselves alone the power to determine of the *expediency* and *amount* of the assessment, would be secure in the only point in which they require protection against the clergy, without the inconvenience of totally withdrawing the fund so raised from the cognizance of the Kirk Session.

Pray let me know what you think on this subject. Chalmers does not express any opinion in his letter to me, but I should from former conversation with him apprehend that he may be disposed to calculate too much on the zeal and intelligence of the ministers and heritors; and therefore not feel the importance of compelling them to recur to a better system by

withdrawing altogether the easy resource of assessments on which they now rely.

Will the Lord Advocate and Melville go with us on this subject, or at least not oppose us. The former, when your first bill was under consideration, expressed himself very stoutly to me in favour of all that we could desire on the subject. The latter I think was decidedly hostile, but chiefly at the instigation of the Lord President,* who I understand took it amiss that he had not been consulted. I hope you will not allow yourself to be discouraged in this or any of your reforms by former want of success.

When do you go to London? I wish you would try this road, and give us a few days in passing. Here is a longer letter than I intended to bore you with.

Believe me ever, most sincerely yours,

MINTO.

Minto, 9th February, 1824.

MY DEAR KENNEDY,

You must have thought me a most arrant blockhead for the nonsense that I wrote you a few days ago, as I have just discovered that I had totally misapprehended the object of your bill. The fact is that I read it over in a great hurry, and that I did not perceive that you only left a power of assessment to provide for the existing cases of paupers.

* Charles Hope.

This limitation of the assessment thoroughly satisfies me, and I think you will render a great public service if you can carry the bill. In order to conciliate the good will of the clergy I should see no objection to admitting them to vote in the *distribution* of the fund so provided by assessment.

Ever yours most sincerely,

MINTO.

Minto, 11th February, 1824.

MY DEAR KENNEDY,

You will perceive from my yesterday's letter that I had discovered my error respecting your poor bill, and that I thoroughly approve of the draft you have made. It was stupid enough in me to have written two long letters of objections (to yourself and Dr. Chalmers) without reading your draft over more attentively. I certainly imagined I had made it out, but there were some *obscurities* in the MS. for which your penmanship must bear the blame.

I am sincerely happy to hear that you have been able to remove the objections that were urged against your jury bill. But there is one obstacle in the way of that and every other useful reform which I fear we cannot remove; I mean the Chancellor and his confederates.

I think I shall see you soon, but have not yet fixed a time for moving, and as you know I always cling to

Minto as long as I can. Pray let me hear what state you find things in, in the busy world.

Ever yours, most sincerely,

MINTO.

From Henry Cockburn.

Edinburgh, 18th February, 1824.

MY DEAR KENNEDY,

For the love of God and the Court of Justiciary, look after the law of combination, since Providence and Huskisson have given Hume a committee on that subject. The Edinburgh Review will be published, I understand, in London on Saturday first. In that work you will see an excellent article by Macculloch, on Combinations, with, as I told you, a short statement by me of the Scottish law.* You are the best judge how the facts of that statement can be got into the report, where, for the sake of checking our Lords hereafter by the fear of exposure, it is very material that it should be. Jeffrey, by an examination of ten minutes, could confirm it all; or if this be irregular get an order on "James Anderson, Depute Clerk of Justiciary, Edinburgh," to send up—1st. Certified copies of the interlocutors of relevancy; 2nd. of the verdicts; 3dly. of the sentences; in all the combination cases brought into the Court of Justi-

* Edinburgh Review, No. 78.

ciary since 1800. If the indictments be necessary, he can send printed copies certified by him of these too. But in one way or other bring out these singular proceedings, the effect of which, in stultifying the justiciary judges, has even already given universal satisfaction. I met Rosslyn t'other day rejoicing.

Huskisson's speech* is most gratifying, and very hostile to the progress of Whiggery. I trust you had a pleasant journey, and Mrs. Kennedy not the worse of it. If the Columnar Jury Bill be thought intricate, it can be made easy in a moment by saying that the sheriffs are to arrange their lists by parishes, and that they are to be taken off for trials by taking each twentieth man, and that the Court Clerk is to take each fifth man. But the columns are better.

Ever yours,

H. Cockburn.

From the Earl of Rosslyn.

Dysart, February 19th, 1824.

My dear Kennedy,

I received your letter the day before yesterday, and I rejoice that your measure is in such good hands, and likely to be so well arranged.

* On Mr. Hume's motion for a Committee to inquire into the state of the law in regard to combinations, emigration, and the export of machinery. The motion was agreed to.

I don't think I can be in London before the first week in April, except from some very urgent cause, especially as the Report of the Commissioners upon the Courts of Scotland has not yet been signed or delivered to the Secretary of State. I think myself warranted in concluding that nothing can be done in the way of Bill till after Easter.

I think you should in a great degree be guided by Lauderdale's advice as to the time and manner of proceeding, for no other person has the same chance of learning the Chancellor's opinion, or of influencing it.

Probably his brother's* death, though it may very much affect him for a time, will force him to go to London without delay, and when there he cannot abstain from business. I shall be most happy to do all in my power to forward an object so important, and if I am satisfied that the thing can be carried easier, early than later, which I rather doubt, I would not hesitate to go up on purpose. Yours faithfully,

ROSSLYN.

Dysart, February 22, 1824.

MY DEAR KENNEDY,

I am quite satisfied that the Jury Bill cannot be put into better hands than those of Cockburn, to

* Sir Thomas Maitland, Governor of Malta and the Ionian Islands.

whose ability in all matters of legislation I look up, more perhaps than to any other man at the Scottish Bar.

I don't think that I shall be in town before the first week in April, for I see no prospect of any of our Scottish business being in an advanced state before that time. The report of the Commissioners was not signed four days ago, and the regular course of office, independent of the habit of delay which pervades all public business, will necessarily retard all proceedings in Parliament till after Easter.

I think under those circumstances it may be more safe and prudent to pass your Jury Bill through the Commons before Easter, and to send it to the Lords at the time that we are engaged in other reforms regarding Scotland. I was at St. Andrews and saw Chalmers yesterday and the day before, and I find that his object in recommending to you that your Poor Bill should be "*permissive*" and not "*imperative*," was that he feared an opposition from the great towns, and in particular from Edinburgh, Glasgow, and Greenock.

It occurred to me that the simplest mode of meeting that apprehension and obviating that objection, would be to insert a clause, exempting from the operation of your Act, all Towns, Parishes, or Places, in which any special or private Act of Parliament was at present in force regulating the maintenance of the

Poor within the same, or imposing an assessment for that purpose. By this clause all the bodies who are likely to feel strong prejudices, and to oppose with effect, would be excluded from the operation of the Bill.

It may be matter for consideration whether it would or would not be prudent to give to such Towns or Parishes having separate Acts, the power to renounce their own present provisions, and to place themselves under your Act; but my own opinion is, that it would be safer to leave that point out, and to allow those who desired it, and who might come under the exemption, to state their own case, and bring forward their own application.

Chalmers begged of me to submit this whole question to you, which I do in entire deference to your judgment; but I still remain of opinion that it is highly desirable that the subject should be introduced and undergo discussion; and if the *minister* be made the organ to assemble the Heritors upon all occasions, as at present, and be allowed to have a vote in the meeting of Heritors, with a provision however that no charge should be laid upon the Heritors of any Parish, except where the resolution of the majority of the meeting, including the minister, if present, should be confirmed by the consent of the Heritors generally, who shall hold to the extent of two-thirds or three-fifths of the valued rent of the Parish, leaving it in

the power of such heritors to express their consent by writing under their own hands if not present, or through their factors or agents duly authorized by them in writing.

In short I am convinced that with a view to save Scotland from the curse which has fallen upon the Landholders of England by the operation of the Poor Rates, and to give to England herself the chance of profiting by an example of a successful inroad upon the system of compulsory provision for the Poor, it is scarcely possible to confer a greater benefit upon your country than by bringing this measure to a happy conclusion. Yours faithfully,

ROSSLYN.

From Henry Cockburn.

26th February, 1824.

MY DEAR KENNEDY,

It is said that John Hay, the lunatic, is going to get some person in the same condition, to present a petition to Parliament for him ; and if he does, I suspect that there will be an attack on our friend Murray and young Sandford, who were appointed by the Court to act as his counsel. His charge is that they would not make statements to the Court which he desired. This applies chiefly to Sandford ; whose answer is, 1st, that in his professional opinion the statements were irrelevant and absurd ; 2nd, that

nevertheless, to please the fool he did make them,—though in grammatical language which the said fool objected to. This explanation is corroborated by Mr. Daniel Fisher, his agent, who was also named by the Court, and by the papers and notes that passed between these three. Now, both Sandford and Fisher are most respectable persons. It is no small praise to the former that he is a young Tory Edinburgh barrister in these times, yet perfectly a gentleman. He spoke to me to-day with such apparent anxiety about his probably unprotected state in Parliament, if such a charge should be made, that I thought it but a duty to say, that I should write to you on the subject. He had a notion of applying to Hum Drum and to Binning, but did not seem to like their Parliamentary odour, in which sensation I was far from discouraging him. So if you be present, defend him, if, and as, you think right. He is an excellent fellow, and utterly above being feeble for a client to please any Court. If I was a litigant I should rather have any man in Scotland my foe than this John Hay. The Court has done more injustice to keep this fellow in good humour than it ever did for any other purpose, (political cases always excepted.)

I am amazed to see the Jury Bill in motion already. Was Peel's Bill on that subject too tempting to be lost ?

Ever yours,

H. Cockburn.

P.S.—You may easily see by the above that I am anxious to keep Sandford unspotted ; in which wish I assure you that all good men here will concur ; so if you can do any good by instructing the presenter of the petition before he fires, pray ram him well with right matter.

Bonaly, 12th March, 1824.

My dear Kennedy,

I am most sincerely grieved by your account of the probable professional consequences of Eldon's cunning and malice on our friend Abercromby. It shows what the public thinks of that worthy judge. I had understood that the late affair would rather do Abercromby good, as his Lordship was notoriously obsequious to those for whom he trembled. It is quite impossible that the prejudice can last long; for indeed the old fellow won't last long himself. I have written to —— a very snell epistle, neither naming you nor alluding to himself ; but mentioning the loss of business as a rumour, and giving my opinion of the timidity and cunning of illiberal attorneys in helping to ruin a professional man, because they are pleased to speculate that a judge must be unfair on the bench in order to gratify a private pique. I have no doubt that he will apply some of it to himself, and if he has been wrong, the more the better. Nobody has a greater regard for Abercromby than he has ; but pro-

fessional anxiety has always been one of his great faults. He would half ruin himself for Abercromby rather than let the grossest fool of a client imagine that his interest had been exposed to a farthing's risk for the salvation of the best man upon earth. Abercromby's letters to Courtenay and to Eldon are both admirable ; Eldon's to him is strongly marked by his habitual duplicity.* I have got the copies of the Jury Bill, but have not looked them over. If there be anything to correct I shall let you know. I don't think Anderson could take upon him to send up printed indictments without an order. Macculloch will be in London in about a fortnight. A much greater man, Michael Linning, the Secretary to the Parthenon, will be there before you get this. We never were so near success with that monumental

* Mr. Abercromby had made some remarks in the House of Commons in regard to the practice of the Court of Chancery, which were misreported in the *Morning Herald*. Lord Eldon, without taking the trouble to inquire whether Mr. Abercromby had really said what was imputed to him, went down to his Court in a fury and declared the statement to be "an utter falsehood," adding that it was incumbent on men who "wore gowns on their backs" to be correct in their representations of matters belonging to their profession. Mr. Abercromby complained of this in the House of Commons as a breach of privilege, and in the course of a pretty long debate both sides of the House concurred in vindicating him from all blame, but the Tories shrunk of course from bringing the Lord Chancellor of England to their bar. The majority against Abercromby's motion, however, was only 49, in a House in which 253 members were present.

undertaking as now. Joseph Hume has intimated by letter that he will support a grant of public money, and we have made a personal and direct application to the Chancellor of the Exchequer, which we flatter ourselves he will not be able to resist. If the proposal being made from the economical side of the house be found useful, Jeffrey has written to Mackintosh, who we hope will not be dumb on the subject of Minerva. Murray, who you know, has a saving crotchet, is against the measure; I mean John Archibald. With that exception I know no Whig here, and no sensible Tory, who is not most anxious to see Edinburgh graced by so noble and so cheap an edifice. Therefore if you see Sir James or Mr. Hume, do tell them how the friends of the good cause rely on them. We only want a public guinea for each of the 20,000 private ones we have raised ourselves. Indeed you may tell them in plain terms that if the Whigs oppose us in Parliament we are all resolved to rat. My mind is quite made up, and so is Jeffrey's, and even that of the fervent Creeffy. Do give us a lift; on a matter more conducive to our Calton Hill happiness, and to the glory of Scotland, than anything of the kind that could be proposed. Our ultimate views are to make its interior a Westminster Abbey for Scotland, a noble and useful design, rendering the edifice more interesting than even its architectural beauty. So give us the Parthenon, and let us keep our princi-

ples. Thomson has been ill, but it is mere cold. After four years' delay he has at last called a meeting, at which last Tuesday all the parties concerned agreed to let Playfair's monument be placed within the Observatory ground on the Calton Hill.

Yours faithfully,

H. Cockburn.

From the Earl of Rosslyn.

Dysart, March 24, 1824.

My dear Kennedy,

I am very glad that you have taken up the Salmon Fishery, which I believe to be a question of great importance. I hear that Charles Grant wishes to put off the Committee to the next Session, but that his opinion rather leans to the right side.

I am anxious to know whether any resistance is to be made to the Jury Bill, and how far Peel will be stout in the support of it. If he is in earnest, the Chancellor will not take part against it, especially as he voted only on the time last year, and said in private he could not conceive how any judges could wish to retain the power of naming their juries.

Courtenay may do a great deal to keep him right, and I flatter myself that both he and Alexander are with us upon this point. Yours faithfully,

Rosslyn.

From Henry Cockburn.

Bonaly, 21st April, 1824.

My dear Kennedy,

I got your Poor Bill to-day, and testify my interest in the subject by sending you already a few frivolous corrections on the margin of one of the copies. It is an excellent Bill, and if not too good to pass, will do infinite service to the poor. Persevere.

Do look after the Court of Session Bill, particularly the Jury Court. I had a long talk with the chief at Dumfries last week, and with Gillies at Glasgow; and made a promise which I have not time to fulfil, to write to Abercromby on the Jury Court part of the subject. The great, the only point to be pushed there, is to separate it as much as possible from the Court of Session. The power of shuttlecocking the parties and the law from the one Court to the other, is ruinous to the popularity and to the fair play of Jury Trial. The Court of Session *never can* try cases by jury, and therefore since the great problem is to unite the two, it is high time, especially with two additional judges, to let the Jury Court decide legal questions; and so long as every legal point is to be taken from the Jury Court as a *bon bouche* for the Court of Session, their Lordships of this last place will just continue, as they do, and have systematically always done, to throw every impediment in the way of the new and rival institution. A majority of the

Commissioners were against interfering with this, but the weight of opinion and all the right reasoning, is the other way. Therefore, do urge Bell to drive the wedge ; coax Courtenay ; exhort Tindal ; make a stand yourself ; and explain the matter to Abercromby, to whom I should write, were I not obliged to go to Aberdeen immediately. Ever yours,

H. Cockburn.

P.S.—I forgot the Jury Bill. The Advocate is an —— .

Edinburgh, 30th April, 1824.

My dear Kennedy,

Two days ago the very Reverend the Presbytery of Edinburgh met on other business, but Dr. Inglis broke out on your Poor Bill. The enclosed is what the *Mercury* states to have taken place.* I called on Andrew Thomson to-day to find out what their objections were, but he was out. I shall direct a

* Yesterday the Presbytery of Edinburgh held their usual monthly meeting. Dr. Inglis called the attention of the Presbytery to a Bill now in progress through the House of Commons for regulating the provision for the poor in Scotland. The Rev. Doctor in a speech of some length, (the details of which we must defer till our next paper), showed the Presbytery that this measure was most dangerous to the interests of the poor, and calculated to demoralize the country, and upon his motion the Presbytery agreed to present petitions to both Houses against the Bill, and for this purpose to meet again on Friday next (to-morrow).

Caledonian Mercury, April 29, 1824.

copy of the next *Mercury*, in which a fuller report of the Doctor's oration is promised, to be sent to you. You will never do unless you get a published exposition of your views, either in the *Review* or in a pamphlet. I cannot think that Chalmers would decline giving it. If he does, you should do it yourself. It is mere ignorance that makes them oppose, and this ignorance is dispellable. Yours ever,

H. Cockburn.

P.S.—I am going over to Hillside to-day, but have written to Ramsay, bidding him send you the newspaper and also a copy of the petition if he can get it.

Edinburgh, 7th May, 1824.

My dear Kennedy,

The late Edinburgh papers will show you that the whole fools in the kingdom are up against the Poor Bill; Mr. Solicitor General in Linlithgow, James Gibson in Midlothian, the Presbyteries of the Established and the Synods of the Secession Church, Dr. Inglis, and Sir Harry Moncrieff. So I presume you will see cause to *intimate the delay* of the measure for the present; and after this, you must, for your own sake, as well as for that of the public, get up some calm and full discussion of the whole subject. Indeed I regret that this was not done first of all; but this cannot be helped now. We had an ample discussion of the matter at Craigcrook yesterday, with Pillans,

Jeffrey, Thomson, and Rutherfurd, and it is incredible what differences of opinion prevail among intelligent men as to what is the existing state of the law. Have you or can you get me any copy of the returns made by the General Assembly a few years' ago, or any other documents tending to explain the real state of Scottish pauperism? You should collect these, and put them into Chalmers's hands, and insist on his expounding the system which he has recommended, and which he sees thus attacked. Yours ever,

H. Cockburn.

18th May, 1824.

My dear Kennedy,

If your statement about the Poor be not over, the enclosed may be useful. The great argument of Mr. Solicitor General in the county of West Lothian, and of others elsewhere, is that the Courts of Law have no power and never exercise it, of compelling people to be relieved. Now it lately pleased the heritors of a Glasgow parish to decline relieving an old indigent man because he was Irish born; which however absurd a reason was their reason. Old Paddy appealed to the Court of Session; and on page 3 of the enclosed you have John Clerk's *mandate*, *ordering* them to relieve. The page I send you is part of a petition by Rutherfurd against the judgment, only lodged yesterday, and of course not de-

cided. What the Court will do we cannot say. But the fact of Eldin ordering relief shows how clear and how perfect the law is.

I am longing to hear from you, for I hear strange things about the Jury Bill and other matters. Is not the Ballot a trick to make it stick in the Lords ?

Ever yours,

H. Cockburn.

Edinburgh, 27th May, 1824.

My dear Kennedy,

I yesterday heard Chalmers make a most admirable exposition of the leading principle of your Poor Bill in the Venerable Assembly, accompanied by a powerful eulogium on its excellence, and a half ludicrous and half eloquent account of what he called the "impregnability" of the intellects of Conveners of Counties, Provosts of Burghs, and Moderators of Synods. Notwithstanding all this he seconded, and was wise in seconding, Duncan of Ruthwell's motion *against* the bill ; his ground being, that the country was not prepared, from ignorance, to receive it heartily, and it would not do to force, and that your process instead of being compulsory should have rather been permissive. Hearing that he had mistaken the stare of delight with which I listened to him for a frown of disapprobation, I went and called on him, and consoled him, and had a long talk with him.

The report in the newspapers looks so adverse to you, that he was afraid of your being surprised at him; but I told him I should write to you to explain how matters stood. I doubt if he can clear his legs of his *permissive* and *compulsory* system; but his whole speech was powerfully in favour of the soundness and ultimate triumph of the bill. Horner and I have got him to agree to publish his speech, which, however, cannot be done for some days, probably ten or twelve.

Yours ever,

H. Cockburn.

Bonaly, by Colinton, 28th July, 1824.

My dear Kennedy,

I know no ground for any rumour of my being about to approach the Shire of Ayr. But if by business or by arrangement I can fall upon any pretence for visiting you, I shall be most happy to avail myself of it. I am at present however quite uncertain about my September motions, and am living, and mean to live all August, in a state of most glorious idleness and self-possession, from which I doubt if any mortal temptation could seduce me. Richardson talks of being here; but not decidedly. Keay is in Perthshire, Rutherfurd in Ireland, Murray, supposed to be at Tulliallan. But I don't see why we should not organise a descent upon you after they are all gathered together again. I have not heard from Abercromby

for months, and did not know that he meditated Continentalism. Never be disgusted by failure; else your friends may disgust you whenever they please. Persevere.

I have a new and perfect story of my friend Robin,* which is too good to be wasted on a letter. The Jury Bill will do yet; for let them make it as bad as they will, the fact of their touching the judges' nomination will ultimately make the system work itself pure. The Court of Session has at last attested the wisdom of the Poor Bill. The outcry was that there was no need of a statute, as it was certain that no court of law could interfere. Vide the Solicitor General's resolutions in Linlithgowshire. Well, the second division signalized the last week of the Session by finding, unanimously and decidedly, that the Court of Session could order a Kirk Session to put a pauper on the roll, and could specify what he was to get. They adhered to the interlocutor by Lord Eldin, which I sent you; and their speeches, from their gross ignorance of expediency, and the keenness with which they proclaimed the principle of control, were better in favour of the bill than even their judgment. The Scotch lairds had better have given a million of money than have had that interlocutor. Your road I had no other sympathy with than as it concerned you. In your salmonic inquiries, I, merely a salmon-

* Robert Downie, M.P. for the Stirling Boroughs.

eater, wish you all success. I am glad that your tidings about the Judicature Bill are good. But I suspect that the clamour will nevertheless be attempted, not merely by writers and advocates who have an interest in existing abuses, but by gulled country gentlemen, whose interest lies the other way. I wish, for the sake of jury trial chiefly, that there was a clear and intelligible statement of the leading facts and of the right views in the Review; where also there ought to have been a full exposition of the Poor Bill. I beg to be remembered, as does Mrs. Cockburn, to Mrs. Kennedy. If you will be at Habbie's How on the 31st instant, at 10 A.M. you will find Jeffrey, Murray, and I, and others, male and female, of rural tendencies, breakfasting on the sward.

Yours ever,

H. COCKBURN.

Bonaly, Colinton, 3rd August, 1824.

MY DEAR KENNEDY,

You know I have always been clear that an exposition should be made of the present state and future prospects of our Scotch pauperism, and have been saying so constantly for the last half year. But as to my doing it, that is totally a different question, because it interferes with vacation, the philosophy of life, it is delicate, and it exposes one to responsibility. At the same time, such is my conviction of the im-

portance of the subject, and of the clearness of the truth, that I will not say that I will not do it. I only won't commit myself. Nothing can be done till the October number now, and there is time to cogitate. What will deter me most is the want of materials, and chiefly the want of that short report of 1818, or something else to show the *increase* of assessments, &c. &c., without which *nothing whatever* can be done. Sir Harry is in the country, and I don't know where to get that or any such document. I must also have your first bill, and a statement from you of the progress it had made and what stopped it. Get me all these, and some of my *vis inertiæ* may be overcome; but still I reserve my own privileges of laziness, and it is three to one it won't be done after all. But these are preliminary essentials.

Richardson is to be here on the 21st, with Charles Bell, who also is a *Professor*. But unless you have trouts,—I mean living ones,—you need not attempt to hook either of them. Yours,

H. Cockburn.

From Sir Henry Parnell, M.P.

Wolverhampton, October 28th, 1824.

My dear Kennedy,

I have postponed, from day to day, writing an answer to your kind invitation, having ever since I received it had hopes of being able to accept of it.

Early in August I had settled a day for setting off for Scotland, when an unexpected and very satisfactory family occurrence prevented me, and when I lately accompanied Mr. Telford to Edinburgh, I there continued to speculate upon returning by the West of Scotland. But to this place I found myself obliged to come, to prepare for giving notices in each of three weeks in the month of November, for a bill to be brought in next Session, for making sundry improvements in the Holyhead Road.

I have attended two meetings of Trustees this morning, and have a third to attend to-morrow, and I have every reason to expect to get these considerable improvements agreed to.

I should have been very much pleased to have examined with you the roads you ought to have had under your management, and to have assisted in contriving some new method of still securing success to your endeavours. Believe me, yours truly,

H. Parnell.

From Henry Cockburn.

14, Charlotte Square, 11th November, 1824.

My dear Kennedy,

I have employed the last gasps of this vacation in fulfilling the half promise I made you, of explaining to the public the facts and principles on which your

late Poor scheme was founded. I have sent it to Jeffrey, whom I have not since seen, and the result I do not know, and do not wish to control. But I had some talk with him before, and I rather think it may appear in this number, which will be out in about three weeks.

I have endeavoured to explain the general principles, defects, tendencies, and present condition of our system: chiefly as connected with the height to which our pauperism has reached, and the late, most legal perhaps, but most alarming, decisions of the court; and to expound the nature of the remedies lately attempted, and to account for the opposition they met with. All this is closed and fortified, by an explanation of what Chalmers has done in Glasgow,—and a sincere eulogium on the economical writings of that man in so far as regards the poor.

Plenty good matter. Yet on the whole I have a feeling that the article is lengthy and dull. If it should turn out otherwise, and open, or help to open, people's eyes to what was lately endeavoured to be done; my satisfaction shall consist in its strengthening your parliamentary hands, and tending to subdue some returning doubts which I have lately heard surmised as rising in your mind about your continuing in that scene.

I suppose I must keep the books you sent me till you come here, which we all hope is to be for at least

one month before you go to London. What have you been doing?

The Friday Club dines on Sunday first, you are in time enough.

I beg to be remembered kindly to Mrs. Kennedy.

Yours faithfully,

H. Cockburn.

28th November, 1824.

My dear Kennedy,

The Review* will not be published for some days, but I have got a copy, which I shall send you *by the Glasgow evening mail of this day*, addressed to Mr. Brown, Maybole.

I see a book advertised as coming, by A. Dunlop, advocate, on the law of the Poor. I understand that his views are right; that is that they are right for the side of reform, by his describing the existing system as all that paupers would wish, though in words he praises it. I told a friend to give him a few hints.

Brougham I understand is to be Rector.

Yours ever,

H. Cockburn.

P.S. There was no time to send you a proof sheet of the Review, as I wished to do.

* *Edinburgh Review*, No. 81, containing Mr. Cockburn's Article on the Scots Poor Law.

Bonaly, Colinton, 18th March, 1825.

My dear Kennedy,

The Jury Bill which you have forced Lord Melville to bring in seems to me to be all right except as to special jurymen, where there is a serious defect.

He takes the Jury Court qualification for such Jurors, which is (I believe) £30 a year of house rent or £100 of valuation ; now it has always been found in the Jury Court that this qualification is too high. It excludes *all* farmers, and a very great number of rich and respectable manufacturers, who live in houses not rented at £30, and who, having no land, have no valuation. This, and the absence of Lairds, cuts off so many that about three years ago there were only four or five special Jurors in the whole county of Banff. We can scarcely ever get twelve special men to attend at a jury trial. It *very* often happens (as for example in the very last case, tried last Monday) that for want of them, we are obliged to take a common juryman. But by the proposed bill there is no such resource; there must be five special men on every jury. Now there never can be that if the challenges be exhausted, unless the whole fifteen attend, because five challenges by each of two persons, strike off ten of them; and unless more than forty-five jurors be summoned, three men can *never* be tried at once, lest they should challenge the whole infusion of special

Toryism. I have spoken to Pitmilly and the Deputes about this, and though they did not perceive it at first, they all admit the objection at last. The remedy is to leave out this absurd classification of Jurors, or to lower the qualification, or rather to make it not depend on house rent or on valuation. It ought to take in *rent*, whether for dwelling house, land, or any heritable premises.

What an important difference on your bill does his Lordship make, in ordering the names to be written on parchment, whereas you used paper! It would be funny if you would make Joseph object to the cost.

I am very wretched about this feast to Brougham, because the citizens of Edinburgh have resolved that I shall preside, and my friends have overcome my resistance, which was sincere and excessive. But Creefy shamed me by offering, if it was thought right, to take the chair himself, rather than that the cause should suffer. There will be an immense turn out, and I trust it may connect the Evil Spirit a little more with Scotch affairs. Do let me hear from you.

Yours ever,

H. Cockburn.

Bonaly, 14th April, 1825.

My dear Kennedy,

Many people have stated the same objection to the creation of a qualification of Jurors. But I

never saw a juror of whom it could be truly said that he was not worth £200. If they don't remedy the objection I formerly mentioned about the special jurors, they may depend upon it that the system won't work. However I quite agree with you that they ought to be allowed to pass the bill their own way; though it would not be amiss to mention this privately to the Advocate, or whoever else takes charge of it. I am anxious to see the larger innovation pass in silence under Melville's hands, when all the beasts of the field roared at your smaller one. The Advocate's leasing making bill, if it be to lessen the punishment is the most curious thing in modern times. And Rothie seems to have some idea that even his act, 1701, will do. I don't despair of seeing the hustings at the Cross after all. Your schoolmaster's notice seems very good. It will obtain a great deal of curious information, and will certainly stop the measure for this year. So as the old Combination Laws are not restored, too prompt means can scarcely be adopted for putting down the bad and domineering spirit of the workmen; a spirit which is quite inconsistent with the ordinary good sense of our Scotch lower orders. The remedy seems to me to be a statute declaring it to be criminal to intimidate or injure those who choose to work with any master or for any wages, and making a summary mode of trial and punishment. If such a law were enforced, I am persuaded that their acting by dele-

gates, &c., would do very little harm, except to themselves. The putting down delegates in every form or degree would prevent the workmen of any two manufactories from discussing their affairs. I have no doubt but that McCulloch could suggest something useful. I rejoice in the Catholic prospects. Time and Justice will at last triumph over even Bishops and Royal Dukes. By the way, there is a clause in the Jury Bill which alarms me. At first there was a clause against "*packing*," not perhaps a very legislative term; but now the Court is to judge of the effect "of *any felonious act*," by which jurors may be returned to serve contrary to the Statute, &c. Now if they mean indirectly to protect everything except such a degree of corruption as amounts to *felony*, or if they mean that even in the case of such a felony, the jury is not necessarily illegal, but that the Court is only to *judge* of it, this is very bad. Why can't it be said at once that a deviation from the Act shall not be an objection to the jury unless it be *wilful?* and fix a severe penalty on the wilful delinquent. Do keep us in a due state of instruction as to Rae's leasing making, which seems to all of us like the coming of the Messiah. I wonder how Macconochie allowed anything connected with that offence to get out of his hands. The quiet with which the Judicature Bill is advancing into life is very edifying. Has the world forgot that Sir A. Mackenzie wrote a pamphlet? I

could not get Brougham talked to leisurely about anything, as he only came about two hours before his festival, and went to Glasgow next morning. That dinner has done infinite good to the cause, and has greatly disturbed the enemy, who are anxious to claim it as theirs, because some of them were there. But *certainly* there were not above fifty, some say not above thirty, which leaves about eight hundred decided Whigs, not a pleasant symptom. Between ourselves Brougham did the eight hundred and the cause very little good. He was egotistical; desultory, what Creefy would call irrelevant, and remarkably heartless with reference to such a meeting held to hail him. He gave them various striking specimens enough of his various powers, but he certainly neither enlightened, confirmed nor exhorted them as to the one thing needful. But all, except the judicious, seemed perfectly pleased, and the affair, enormous as it was, was as orderly, and went off as well, as if it had consisted of a few private friends. Jeffrey said more fine and beautiful things about America and La Fayette than ever were said before in five minutes. We had a few drops of rain to-day, which the children ran out to see and touch, for it is now about six weeks or two months since we have been refreshed in that way.

Yours faithfully,

H. Cockburn.

From Henry Brougham, M.P.

5, Hill Street, May 25.

My dear K.,

R. Aytoun and Rothiemurcus are to breakfast with me to-morrow morning, in order to talk over the Judicature Bill. Pray meet them, as they begged you might be one of the party.

Yours, ever truly,

H. Brougham.

Hill Street, November 14th, 1825.

My dear Kennedy,

I am very much obliged to you for the rules and proceedings of the Ayr Mechanics' Institution, which seems to be founded under very favourable auspices. One of the regulations I have my doubts about: viz. that only one-third of the Committee are to be operatives, the other two-thirds being honorary members and masters. It is most important certainly that two-thirds must thus belong to the classes actually engaged in business, but I should dread the tendency of the masters and honorary members to unite and leave the men in a minority, and that the apprehension of this may prevent the men from taking a full interest in the Institution. However, this plan has been adopted after a full consideration of the subject, and there is the example of the Liverpool Institution in its favour.

All that remains to do, therefore, is to watch how it works, and if there is any material mischief approaching from that quarter, to guard against it by a timely change.

I should take it as a great favour if you would let me be informed from time to time of the progress of the Institution, as I keep an account of all such things, and am enabled by the experience of one place to help others in avoiding what fails, and following what answers.

It would save you the trouble if you would ask any of the official men whom you may know to write to me, giving the members attending, and subscribing, what is done or doing, as to Lectures, Library, &c., with any changes in the original rules, and any facts showing how far they are found to answer.

Allusion is made to an Institution in a neighbouring town, perhaps you could procure me information respecting it also. The name of the place is not given.

I hope and trust Mrs. Kennedy is well. Remember me most kindly to her. Wishaw is come back and looks better than he did at first. Charles is quite recovered.

Yours ever,

H. Brougham.

From T. Spring Rice.

London, Baker Street, January 11th, 1826.

My dear Kennedy,

I want your assistance on a point of Scottish

History. I wish to refer to the nature of your heritable jurisdictions, and to the mode in which their extinction took place. Will you let me know where I will find the best information on the subject. I do not apologise, for I feel confident that you will not regret the trouble I impose upon you. No news, but that our little Marquis Wellesley has been offered the Governor Generalship of India. It is not yet known whether he accepts, but as the Marchesa is said to be *enceinte*, he may find it convenient to provide her with a golden nest in which to lay her eggs. The Duke of Buckingham is spoken of as his successor. Does not this suggest a new reading in Richard III., and should not "So much for Buckingham" be followed by a "?" I think Lord Bristol is a more likely successor to the Wellesley.

I took the best care of your foreign protégé Chauvet. In little more than a fortnight I showed him our county ball, our races and ordinary, Daniel O'Connell, an aggregate meeting, and a civil and religious liberty dinner. This was concentrating Ireland into a small space.

Pray present my compliments to Mrs. Kennedy, and believe me, my dear Kennedy, ever most faithfully yours,

T. Spring Rice.

P.S.—If I can be of any use to you here, command me.

From Henry Cockburn.

Edinburgh, 27th February, 1826.

My dear Kennedy,

The minister of Closeburn published a pamphlet a year ago about Parochial Schools. He wrote to me about a month ago asking if I thought he could do any good (which is his object) by sending any copies to London among Scotch members. I advised him to write a letter to Charles Grant, and to deliver it and two copies to him through Richardson's hands, who is a great friend of the said minister. All which I presume has been done. Now Horner is going to London on Friday first, and he is to get a letter of introduction to Mr. Grant on some other subject. There can never be a better opportunity of fixing or of inspiring Grant to proceed with his commission, for if Horner, with his sense and method, be let out upon him, he's gone. You should write to Grant telling him Horner's intelligence on all these subjects, and it would not be amiss, if *by return of post* you sent also a letter to Horner, addressed to him here, introducing him to Grant. It would be a most valuable commission, not only useful to Scotland, but the salvation of Pillans if he be on it, and if this opportunity be lost such another may not soon occur.

I have written fully to Abercromby on Scotch judges. Our reform petition has succeeded perfectly. We have got about 7200 signatures, being 397 above

those of 1823, without a public meeting, without calling at any houses, without opposition, and in a season of great mercantile depression. If Blyth, the merchant, had not failed in the midst of it, we should certainly have had 500 names more.

The Provost has turned out an idiot. Imagine his being the means of making Sir William Forbes, &c. plot with me against the local powers, and call public meetings, and all that he may ruin the town by building up Princes Street. He is in a devil of a scrape at present, out of which, if he does not back this week, he will cut but a sorry figure at another public meeting which these radical Tories will call. It is a great addition to the satisfaction of the whole insanity that his great mentor is Mr. Solicitor General.

Pray remember Mrs. Cockburn and me to Mrs. Kennedy.

The fashionable place here now is the College; where Dr. Thomas Charles Hope lectures to ladies on Chemistry. He receives 300 of them by a back window, which he has converted into a door. Each of them brings a beau, and the ladies declare that there never was anything so delightful as these chemical flirtations. The Doctor is in absolute extacy with his audience of veils and feathers, and can't leave the Affinities. The only thing that inwardly corrodes him, is that in an evil moment, when he did not expect to draw £200, he published that he was to give the fees to found a Chemical prize, and that he

can't now retract, though the said fees amount to about £700. Horrible ——. I wish some of his experiments would blow him up. Each female student would get a bit of him. Ever yours,

H. Cockburn.

From John Smith, Esq., M.P.

Grosvenor Square, 4th March, 1826.

My dear Sir,

I shall have great pleasure in presenting the Petition you have sent me from Ayr, or in rendering you any other service in my power.

Ministers have bungled the Currency question most unpardonably. They have created a new panic, which I trust is subsiding, but which has occasioned great mischief. They treated my proposition of a Committee with contempt, though they have displayed a complete ignorance of Banking, and an entire distrust of those who knew something about it, and whose integrity they had no reason to suspect. This is Lord Liverpool's doing and not Huskisson's, who in his heart must be ashamed of the whole proceeding.

I have seen Mr. Kennedy* twice, and think him a well-informed man. I advise him and others to strive for an extension of time, which is all I think that can be obtained.

I am, my dear Sir, very truly yours,

J. Smith.

* Quintin Kennedy, Banker, Ayr.

From the Right Honorable Charles Grant, M.P.

London, March 27th, 1826.

My dear Sir,

Nothing but accidental circumstances have prevented me from sooner troubling you with respect to some letters which I received a few days ago, and which have been evidently sent to me by mistake. I beg to enclose them. They are clearly directed to me, yet I have no brother in India, nor is any one of the circumstances referred to in this correspondence applicable to me or my family. I must therefore conclude there has been some error.

I have to thank you for your obliging letter by Mr. Horner. I was very happy to make his acquaintance, on his own account and on that of his brother, whom in many respects he very much resembles. We had conversation on the subject which so justly interests you—education—and his opinions entirely confirmed all my impressions. There have however arisen obstacles in certain quarters which vex and annoy me. I shall yet keep it in view, and if I can prevail on the high authorities to countenance me, or at least to keep neutrality, I shall not fail to move a commission.

I thank you for your letter by Mr. Kennedy who is a very sensible and intelligent man. The best mode of meeting that question was by referring it to a Committee. I remain, my dear Sir,

Yours very truly,

Charles Grant.

From John Smith, M.P.

Grosvenor Square, May 17th, 1826.

My dear Sir,

We have had at our Committee for relieving the manufacturers, applications from a place in Ayrshire. On you I can depend, and so will the other members of our Board. If you feel no objection, pray take the trouble to let me know how matters stand in your county, and what necessity there is for our interference. Your name shall not appear if you dislike it.

Abercromby is furious at the proceedings of the Scotch £1. note enquiry. As one of the members of that Committee I went into it rather indisposed against this paper, but on the whole I feel now inclined to let well alone (to use a vulgar phrase).

Downie of Appin, in reply to a question from Canning, whether the one pound notes were not very dirty, replied, "Very, and if you meddle with them you'll foul your fingers." This once strenuous but now doubtful adherent of the Government has taken a juster view of the feelings of his countrymen than our friend in New Street.

With best compliments to Mrs. Kennedy, in which Mrs. Smith unites,

I am, my dear Sir, very sincerely yours,

J. Smith.

London, May 23rd, 1826.

My dear Sir,

I thank you for your letter. Our Committee have sent money to Glasgow and Paisley in relief to distress there, and have since, *to-day*, voted £1000 to the subscription at Edinburgh for the assistance of the distressed manufacturers *in Scotland*. We wish therefore you would refer the Petitioners in the two cases sent to me to Edinburgh. I shall use every effort to keep that fund supplied, which there will be no difficulty in doing if we see a liberal spirit evinced in the Scottish capital. As yet they have not done much.

In haste, I am, my dear Sir, very sincerely yours,

John Smith.

The cases you sent me will be forwarded to the Lord Provost by to-night's post, but the application should be immediately made to the proper authorities at Edinburgh by your poor protégées.

The accounts from Scotland received this morning are melancholy, but those from Lancashire and Yorkshire much better. In the former county trade begins in a degree to revive.

From Lord Holland.

Holland House, 13th July, 1826.

My dear Sir,

I am anxious to procure the reports on the Salmon fisheries for a friend of mine in Paris, who is

occupied in investigating the natural history of fish. Two of the reports, namely, that printed 30th March, 1825, and that printed 3rd June of the same year, are in my possession, but I observe that in the former the Committee state the resolutions to be founded on evidence taken in the *preceding*, as well as the then actual Session of Parliament, but the evidence printed in both is exclusively that taken in 1825. You were, I think, in the chair, and I should be much obliged to you to tell me if any evidence was printed previous to March, 1825, if that evidence relates directly or indirectly to the natural history and habits of fish of the salmon kind, and if you could put me in the way of procuring it. In short, I would thank you to tell me what reports would make a complete collection of the evidence given on this subject to Parliament, and where I could get them. I hope William Romilly was well when you heard from him. Lady Holland joins in kindest remembrances to Mrs. Kennedy, and in congratulations to you on your re-election.

I am truly yours,

VASSAL HOLLAND.

From Henry Brougham, M.P.

Brougham, September 17, 1826.

MY DEAR K.,

I trouble you with this letter in order to obtain from or through you intelligence of the state

of the Ayr Mechanics Institution, of which I have heard nothing since I received the information you were good enough to give me last winter. I should like to know its fortunes since,—how it has been affected by the times, what the number of subscribers now is, and whether any change has been found by experience to be required in the regulations, particularly if the managing Committee is found to discharge its functions well, the working men taking a due interest and acting in harmony with their superiors and one another. I am also desirous of knowing the average number of books taken out, and whether it increases or not, in proportion to the number of members, also whether *general* or *scientific* books are most read. Excuse me for giving you so much trouble, but I have no other means of obtaining this intelligence.

I find that Wishaw has passed through part of Cumberland on his way towards you; if he is now with you, ask him (with my best regards) at what time we may look for him here, as my being able to meet him at Netherby on the 28th is doubtful. Tell him also that nothing is settled as to Law arrangements, except Copley going to the Rolls and Tindal being Solicitor General. Rumour speaks absurdly of Manners for Deputy Speaker, also of Alexander, which is not at all absurd; but I question if there will be any. There is also a talk of something for

Giffard's family, but whether to be paid by Lord Eldon is not said. With kindest regards to Mrs. Kennedy, Yours ever,

H. Brougham.

From Henry Cockburn.

Glasgow, 19th September, 1826.

My dear Kennedy,

Jeffrey and I are obliged to leave this on Thursday for Perth, where we have a Kirkaldy duellist to defend, and therefore cannot have the pleasure of seeing you at Dalquharran this bout. If you be going out with any unreasonable friend, let me advise you to get this culprit's pistols. The man never had one in his hand before, and had none in possession ; but on going into a shop in Edinburgh to buy a pair, he asked if they were good ones, "You may depend upon them, Sir, for they are the very pistols that shot the man at the ferry." And next day they shot the man at Kirkaldy.

I heard from Abercromby t'other day, well—at Buxton. He is much shocked at this new Anti-Jury Court Commission; which shows his ignorance of Scotch affairs. For what should surprise him in a job against trial by jury, and in favour of high salaries, in Scotland ? Moncrieff is certainly to be your new Dean. Mr. Solicitor (modest man) prefers the glory of giving to that of taking. It ought to have been

Thomson. But we must ride the water as we find it. I hope you mean to co-operate with Abercromby, or he with you, in doing something next session about Scotch tailzies? He is very keen about it, and by Irvine's help, I mean to send him a Bill directed solely against *future* entailing. It is a strong and a simple case, and I should think, not hopeless. Do look after it. And don't forget the schoolmasters. I must try to get a copy of the Report.

What a worthy Commission for the College! Principal Baird refined through Lord Huntly is a beautiful academic essence. Mr. Solicitor General is the active man, and has multiplied himself into seventy-three questions. It ought to be called the Solicitor's larger catechism. He is here, as is Creefy, his elève. I hear it rumoured that Murray's body was seen in this quarter the other day. Is it with you? I wish mine were. Ever yours,

H. Cockburn.

Bonaly, by Colinton, 3rd October, 1826.

My dear Kennedy,

I am meditating a parochial schoolmaster review; but it is utterly impossible to do anything to the purpose without getting some *general results*, made out of the enormous volume which you sent me, and which I have got. The want of tabular views makes the whole mass as useless as Hum Drum could

have wished. I have written to Macfarlane, the schoolmaster of Stewarton, the preses of their society for this year, asking him if he could get them made out. He writes me that he will, but that he must get the book. Now I want to know if you have a spare copy you can send him; or shall I send you back mine for that purpose? My object is to get the volume sent to him *safely*, and without *expense*, which I don't know anything that can accomplish except the post-office and a frank. If I put it into a stage coach, I can't tell when or how he may get it. Write me what is to be done, and say if you know the man, if he be a fool or what. Yours ever,

H. Cockburn.

Bonaly, Colinton, 7th October, 1826.

My dear Kennedy,

Macfarlane having got your copy, I have this day sent him instructions what to do. Some of his brethren are to help him, but not Douglas, who I believe, gave up his school some time ago for a connection with a newspaper in London. It was quite right, and will be ever useful to have the details of each parish, but without an abstract it must be always greatly defective, and therefore you will complete the good work, if you shall persuade the Speaker to order one to be made out. I don't think it possible

that I can get Macfarlane's tabular result *of the average of Presbyteries*, which is all that I have told him to try, before the end of November. You should clearly get the returns completed, else, for all ages, the record will be imperfect.

I have never thought of the Sheriff's small debt jurisdiction, but I should suspect the existing Act had better be allowed to work as it is, for a little, without being touched. As to the circuits, I don't see what hinders any Sheriff from perambulating his county as he pleases. When do you go to London? For you have much to attend to next Session, and if you feel at a loss on any point you should come to Edinburgh to be instructed. You have

1. The Schoolmasters,
2. The Entail Bill,
3. The Jury Court,
4. The University Commission,
5. The Fife Ferries,
6. The Edinburgh Improvement Bill,
7. The Judges' Salaries,
8. The Judicial Appointments of Scotland,
9. The Port Patrick Road,
10. Getting us £50,000 for the National Monument,

all upon your own two personal shoulders; and you are to be blessed or cursed in all ages, exactly as you keep everything right on all these subjects. And

this, observe, is *over and above* taking care of the ordinary trifles, such as, Scotch Representation, The Constitution, Taxes, the Press, the Liberty of the Subject, Contested Elections, Ireland, and other frivolities, which don't trouble Ministers much, and of course can't at all disturb an active man like you.

Ever yours,

H. Cockburn.

From the Rev. T. Malthus.

London, February 5, 1827.

My dear Sir,

Your letter found me just as I was setting off for London ; and I write from hence to say that I will certainly make myself acquainted with Mr. William Hunter, though I have found in general that I cannot be of much use in that way.

When we had the pleasure of meeting you in the Highlands, you said something about the possibility of calling upon us. If you can put up with our scanty accommodation, we should be most happy if you would take us in your way to town. Whishaw is, I rather believe, coming to us next Friday se'nnight, intending to take me on with him to Ampthill to see Sir James Mackintosh on the Saturday.

From the day now appointed for the consideration of the corn question, I should expect that you would be on the road next week, and if you and Mrs.

Kennedy could do us the honour to come before Friday, and stay to that day you would meet Whishaw, and give Mrs. Malthus and myself great pleasure.

I hear that the duty on imported corn is to be 17*s* 6*d* the quarter, and to be a variable one. If it is to be as much as 17*s* 6*d*, it had no doubt better vary. A fixed duty of 17*s* 6*d* could not be maintained in any approach towards a scarcity.

Mrs. Malthus, if she were here, would I know send her kindest regards to Mrs. Kennedy, who I sincerely hope is in good health. In haste,

Believe me, my dear Sir, truly yours,

T. Robt. Malthus.

From Henry Cockburn.

20th March, 1827.

My dear Kennedy,

I think your pauper clause excellent. I wish there were no settlements at all; and consequently must like anything that obstructs them. But I fear that you have no chance of getting, even by stealth, the period of settlement for *Scotch* people extended from three years to fifteen, or for any longer period at all. Why could you not confine the new rule to those who *had no previous settlement by birth.* I know that this would only affect English or Irish; but it is only these who are meant to be affected, and the circumlocution hides the design.

Do attend to the Edinburgh Improvements Bill ; which has met with not unanimous, but unexampled, support, and runs no risk except from the selfish designs of our chief magistrate against Princes Street. He has got a creature of his, a smith called Begbie, to come forward as a feuer objecting to the clause by which we have debarred the Town Council from ever discharging the restrictions which, for public benefit, they have imposed on all their vassals against building in the valley east of the mound. This man (*i.e.* Trotter) says that his *chance* of getting the magistrates by bribery or otherwise, to *abuse their trust*, by letting him raise his buildings and thus ruin Princes Street, is a vested right; and strange to say, so sensible a man as David Ramsay thinks so too. I have directed Richardson, for the faculty of Advocates, to expose this, and rather to wreck the bill than yield one iota against Princes Street ; the saving of which is worth the whole tax.

Lord Minto wrote to me about tailzies, but very generally, and did not say that Abercromby wanted anything else from me ; so I am waiting till we see what comes forth. He talked of Cranstoun ; who I wish would interfere ; but you know the vanity of expecting anything practical from him. This is not a world of essences, and therefore the preter-pluperfect cannot vulgarise himself by action.

Murray, the Dean, Sir John Dalrymple, and a

virtuous minority of 13 have this day been battling the rural Tories at a county meeting in order to get a few popular Commissioners into the new Bridewell Act. It is very strange and very mortifying to see the resistance that is made to this very slender encroachment on the dominions of illiberality. Even the Town Council is right here ; yet your real country gentlemen oppose this *on account of the principle.*

Do save Princes Street. Ever yours,

H. Cockburn.

From the Right Hon. Robert Peel, M.P.

Whitehall, April 10th, 1827.

Mr. Peel presents his compliments to Mr. Kennedy and begs leave to transmit to him the enclosed letter from Mr. Conolly, together with a copy of Mr. Peel's answer on the subject of Mr. Kennedy's bill respecting the Salmon Fishery.

Whitehall, April 9th, 1827.

Sir,

I beg leave to acknowledge the receipt of your letter of the 3rd April, and to acquaint you that I will confer with Mr. Kennedy on the subject of it, who will I have no doubt allow sufficient time for the consideration of the Provisions of his Bill respecting the Salmon Fisheries. I am, &c.,

Robert Peel.

Ed. Conolly, Esq.

From the Rev. Dr. Chalmers.

St. Andrew's, April 19th, 1827.

My dear Sir,

I take it very kind that you have sent me a draft of your proposed Bill.

It will certainly prune away one evil from a system that is radically evil, and for the entire subversion of which I should vastly have preferred your last Bill which needed nothing but a permissive clause to make it unexceptionable.

The ministerial resignations have created a great sensation amongst us. I trust that they will relieve you from all that disgraceful opposition which the Lord Advocate and others raised against your legal and economical reforms for the good of Scotland. I am not without hope that you will renew your efforts on the subject of pauperism, but believe me that the law for its abolition should be a permissive and not a compulsory one.

The great deliverance which I feel in the recent changes is the removal of Lord Melville from an influence of which I am sorry experimentally that it had a most blasting and deleterious effect, both on the interests of literature and the church. He is the Chancellor of our University, and by his corrupt and careless patronage has done us a world of mischief.

I have the honour to be, my dear Sir,

Yours with great esteem and regard,

Thomas Chalmers.

From Henry Cockburn.

Edinburgh, 26th April, 1827.

My dear Kennedy,

I have been for several days in a state of excessive errancy, and have got your letter only this moment on coming home from Inverness.

I shall write to you fully in a day or two, but I cannot lose a moment in telling you some things which may be safely acted upon in so far as Scotland is concerned.

In the first place the Liberals here are all in raptures with the defeat of the Tories and the rise of the Whigs, and instead of excluding themselves by stickling for everything right, the decided opinion of the wise here is that it is the duty of the Whigs to take office, and to do what good they can, though with the minimum of power.

Secondly, neither Rae nor Hope have the smallest intention of resigning—not the slightest. Rae will be very glad to go into the retirement of the Exchequer Bench, and Baron Rattray will be very glad to make room for him if his son be made a Sheriff; all of which would be quite right. But Rae cannot afford to resign and wait.

Thirdly, I do not believe that there is any sane Whig here who would hesitate to take office even in combination with John Hope. Hope will be perfectly liberal as soon as liberality is in vogue, and no man is

entitled to risk the rising cause of Scotland by rejecting its advancement in his company.

Fourthly, and ABOVE ALL, save us from a continuance of the horrid system of being ruled by a native jobbing Scot. Hope is in extacy at the prospect of getting quit of Rae, and getting in Binning, *i.e.* himself. Now if we are to be the slaves of the Hopes, we had much better have remained subject to the old hereditary rule.

Little Arniston and little Menzies, whom I saw at Inverness, are in profound despair at the state of the world.

Do let me hear from you. Ever yours,

H. COCKBURN.

Bonaly, 26th April, 1827.

MY DEAR KENNEDY,

I have written to you already to-day ; but on musing out here in a hackney coach (the snow in some places four feet deep) I began to think I had not duly impressed you with the exact truth as to his Majesty's present Solicitor General for Scotland. I have little fear of his being illiberal, where liberality is convenient, but still his taste is the other way, and he is the organ and head of all that is bad here. There is therefore every reason for getting quit of him *but one*, which is, that being the head of our worst Tory faction, it may be wise as a measure of

precaution in a medley Ministry, to retain him. If he were thrown overboard, he would instantly organise and guide a crew very adverse to Scotch improvement, and, from family connection and bad principle, very powerful here. Keeping him, on the other hand, would neutralise or palsy nearly the whole of that sect, so (like the union of Canning and Holland) it is solely a matter of policy either way. On the whole, were he well curbed and directed, I would be for keeping him. But if he, by himself, or Binning, or otherwise, get *the say* in Scotch affairs, Lord help the country, *and my fear is that he will get it*. Remember I predict this.

As to Whigs taking office here, I am clear that they should do it; but I am clear that they do so at great risk. For Scotland requires so much reform, that even the present Government won't grant what is expected by the people, and the official person who does not try to get what they want necessarily loses his influence. Thus he is between the devil and the deep sea. For example what Scotch Whig in power could decline to push the representation question ? Yet even in the Edinburgh case, he would be gagged, even by Canning. A similar collision would take place at every step. Still my decided opinion is that the experiment ought to be tried ; for the very interruption of the prescription of hereditary power is of infinite use to the country.

I see the newspapers mention that Aberdeen is going to introduce an Entail Bill. Is this true do you think ?

The citizens of Edinburgh, contemplating the extinction of the word Melville, and the prospect of some Whig influence, are in extacies. Peter Brown said, rubbing his hands, t'other day, " Odd sir, ou'l do fine " noo. An' Maister Ecbercromby will be member for " the City ! *But a' wud grudge to see him represent* " *the toon cooncil.*" Write. Ever yours,

H. Cockburn.

Bonaly, 28th April, 1827.

My dear Kennedy,

I wrote you twice yesterday, and I begin to suspect that owing to there being no London post that day you will get this letter and these two at once ; rather an unreasonable covey.—I have since seen some more of the lieges who belong to the enemy and to the Solicitor General, and I am satisfied that if this great man remains in office it will be chiefly for the purpose of keeping up his favourite faction. The adherents of that faction, especially the younger men, are furious and in despair at the Tory blunder that has been committed, and their great hold is in Hope (not in the virtue, but in the man). I don't mention this to excite you to exclude him, because I still think he would be a troublesome enemy ; but to impress upon you the

absolute necessity of not riding him with a snaffle, and of letting him distinctly understand that he must work pleasantly under the new system, or cease to get his corn. He is *the only* important Scotch card in the old pack; insomuch that I think the prospects of this part of the country depend mainly on how he is dealt. The true line I think is neither to force him to become the head of the Scotch Tories, nor to let him utterly keep down the whole of Scotch Whiggism.

But I forget that Murray and Horner are beside you, and they know all the right views as well as I do. Whatever else is done, I do trust, that, were it only to mark the change, *something*, be it ever so slight, will be done for Scotland; for the retention, as a matter of course, of the whole existing abominations in Scotland, amidst such infusion of liberality elsewhere, would make the people justly think that the freeing of Scotland from its established provincial trammels was never to be looked for. To be sure Melville is gone; but Melville was far better than his followers here, and it seems to me that some *local* evidence of the alteration of the times is necessary.

I forgot to tell you that the article on Parish Schools was too late for the last Number. It will appear, I suppose, in the next. In the meantime I hope nothing will be done this Session.

I still understand that neither the Lord Advocate

nor Hope have any idea of retiring. I hear indeed that the former says openly that he *cannot*. The Solicitor's friends affect to say that it is impossible for him to act under Lord Lansdowne ! ! ! But I don't believe he ever said so, and am perfectly certain he will act under *any* ministry to which he can adhere without disgrace. The evil of his being out is his giving the enemy a head, (or at least a leader), and the evil of his being in, is, that secretly his real feeling will always be working, and, fomented by Binning, a resident Melville, and his secret associates, he will be thwarting right measures, and keeping ready for revolt. How are you for managing him ?

Ever yours,

H. Cockburn.

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*From the Earl of Carlisle.**

Grosvenor Place, April 29th, 1827.

Lord Carlisle presents his compliments to Mr. Kennedy and will be happy to see him to-day at 3 o'clock, that hour not being inconvenient to Mr. Kennedy.

* This note relates to an interview which Mr. Kennedy had requested Lord Carlisle to allow him to have on the subject of Lord Binning being named "Minister" for Scotland on the formation of Mr. Canning's administration. Mr. Kennedy thought that Lord Carlisle was the best channel he could have to Mr. Canning, to remonstrate against this arrangement similar as he feared to what had previously existed. At the interview Lord Carlisle was so good as to say that he would mention the matter to Mr. Can-

From the Marquis of Lansdowne.

Berkley Square, May 1st.

Dear Kennedy,

I thought it better to inquire into the circumstances at the fountain head before I answered your letter.

I am *assured* that there is no intention of appointing any person "Minister of Scotland," even by implication, and my objections to the existence of any such character, under any circumstances, for the future, were entirely acquiesced in. You may rely upon it however that *I* will never form an official connection with the Government of the nature which

ning. Mr. Kennedy stated that his being able to support the new Government depended on no such arrangement being made.

On the day on which the House of Commons met, when Mr. Canning took his seat as Prime Minister, but before he came into the House, Lord Binning beckoned to Mr. Kennedy to come out into the Speaker's room, when he stated that of which Mr. Kennedy had previously been informed, that the arrangement as to him was at an end, and did not manifest any displeasure. When the conversation was going on, Mr. Canning passed through the Speaker's room on his way into the House, and on seeing the two Scotsmen, in conclave on the subject of which he had heard, seemed much amused—by one of those wonderful expressions of countenance of which his countenance was so susceptible.

The subject to which this note refers, is adverted to in Lord Cockburn's Memorials, page 447, the correctness of whose statement on this small matter is thus attested by Lord Carlisle's note and by a letter of Lord Lansdowne's of the 1st of May.—T.F.K.

has been contemplated, without everything being made clear upon that point.

What has been done, has I really believe been done temporarily, though perhaps hastily, to open a channel for some immediate communications, though perhaps an improper one, even for that purpose, has been selected. I remain, ever yours most truly,

LANSDOWNE.

From Henry Cockburn.

Edinburgh, 1st May, 1827.

MY DEAR KENNEDY,

It is said,—and tho' I don't absolutely know it to be a fact, I believe, that Hope and Rae left this yesterday for London. I think it right to let you know this, because of course they meditate no good to Scotland, and no fair or correct information with respect to its people or state; and you may have opportunities of correcting their poison.

A rumour was so prevalent here yesterday of Pitmilly having suddenly died, that I should not wonder if there were already jobs on foot to secure his place to Archie Bell, or Shank More, or some such worthy successor. The report, however, I believe is utterly groundless. Ever yours,

H. COCKBURN.

Since the above was written I learn that Hope for

certain is gone ; and that the faction he leads here is in great spirits, God knows at what. I suppose it is that Lansdowne has not at once taken office ; which were it only for that insignificant speck called Scotland, I wish sincerely that he had.

The exact state of things here is now perfectly well known, and is nearly what I told you before. The Tory part of his Majesty's Government will have all our Whigs, honestly. The Whig part of it will have all our Tories, hypocritically. The former, thankful for small mercies, will do what they can to make the good that has happened better. The latter, thankful for nothing unless they have everything, will take what they can get grudgingly, and will be perpetually trying to make the bad that remains worse.

Bonaly, 4th May, 1827.

My dear Kennedy,

Many thanks for your two last letters. The enclosure from Lord Lansdowne is most satisfactory. But much mischief will be done, because much illiberality and hostile hope will be kept up, even by the temporary appearance of Binning as Scottish Manager. Pray live yourself, and enjoin all the friends of Scotland, who are on the spot to live in the belief that it is *possible* that Lord Lansdowne may never have anything official to do with us, and that if this prove true all the efforts of misrepresentation upon ignor-

ance will be employed to perpetuate the system so dear to our enemies. I am fully aware of our insignificance to those who have England and Ireland in their hands, but this only makes it the more necessary that we should take care of ourselves; and had I not the most perfect reliance on you and Abercromby, I should be much inclined to sound the alarm. But this would make it appear that the liberal party were hostile to the liberal Government, and it is so important to be all united in this respect that I suppose it will be most prudent to have faith and be quiet. But for this very reason, observe that the future peace of Scotland is left in the hands of a few who care for her in London; and I need not warn you that your late remonstrances, however well received, will soon be forgotten;—especially when the suspicions of those in power will be lulled, as they will be, by the apparent good behaviour which official people here will assume during the period of probation. Don't lose sight of the object therefore. Is it impossible to get the Evil Principle to interfere? or is this necessary?

I sent your first letter, and I shall send your second, to Thomson. If we be really handed over to a Binning, I shall consider it as all over with Scotland. I was on a hill planting ivy when I got your letter. After due curses, I resumed my task, but at every spadeful, hit hard and wished the clods were

certain heads. We return to town for the Session to-morrow. I shall let you know what is said more fully after we are all gathered into the outer House. Do write when anything touching us occurs.

Yours ever,

H. Cockburn.

6th May, 1827.

My dear Kennedy,

I am running off to Glasgow, but cannot go without letting you know that your recent exertions in saving Scotland from Binning* are duly understood and appreciated here. We are all aware that we owe that deliverance, or in other words that we owe everything, to you, and to Abercromby. No more effectual service could have been done to the right cause. But don't forget that there is a constant tendency to that sort of mischief in Scotch matters, and that an actual Binning always on the spot, has great power over an ignorant Minister. I dined at Thomson's yesterday, with eight of the persons whose good opinion I believe is more valuable to you and to Abercromby, than that of any other people in this country, and there was but one sentiment of gratitude among them to you both. Ever yours,

H. Cockburn.

* Afterwards Earl of Haddington.

If you see Abercromby tell him I shall answer his question in a day or two.

14th May, 1827.

My dear Kennedy,

I shall respond to your letter received to-night, upon public matters, soon. But I write now to let you know that in spite of the Provost's directions to his council, we have got him beat by (I think) 18 to 10. Eighteen have resolved to give up the meadows and links, so that we have saved Princes Street on the north, and all the open ground on the south, of the city. A real improvement bill. Let me advise you, however to suspect, as I believe that there is a snake in the grass. Hum Drum is said to be strongly against the tax in his heart. Beware lest he, or others, urge the Committee to make more demands, *in order to defeat the bill.* The Provost and the other enemies of it, I have no doubt flattered themselves that they had succeeded in destroying it, the one by insisting upon a point which the other thought would be resisted. So keep what you have got, and get the bill passed as it stands. It will be a great achievement to have saved all these open spaces at once,—though the links were safe without an act. But the meadows would to a certainty have been built upon. They make a bad, damp walk ; but I see a good use to make of them. I would feu them hereafter *for the*

public, by means of trustees, and with the price buy up Arthur's Seat, &c., and lay it all open for the community ; or at least purchase some other and better ground. Pray tell David Ramsay if you see him, that as the job is done, I fancy I need not trouble him by answering his letters.

Trotter is an ——; with only the disposition to be cunning but not the ability. The Leith people are in great spirits.

There is a strange rumour here, which I believe, (though I can't tell why,) to be well founded. It is that Mr. Solicitor General has taken a house at Hackney, and means to live this summer near London. Did you ever see a mermaid at Hackney ? If his removal takes place, depend upon it there is something queer in view. Does he mean to cultivate public men and measures ? He must be looked after. I shall write to you in a day or two. Ever yours,

H. Cockburn.

Master Robert Downie* declares that when the result of his Committee was announced to the house, "It was most affecting to hear the report. There were shoots of approbation from all quarters of the hoose."

* Robert Downie of Appin, M.P. for the Stirling Burghs. His return had been petitioned against, and what follows is his own account of the reception by the House of the declaration by the Committee that he had been duly elected.

From the Earl of Minto.

18, King Street, St. James's, Sunday.

My dear Kennedy,

Many thanks for the letters, which I return to you with the exception of that one which I wish to let Lansdowne see. When Abercromby returns, we must talk over these matters together; in the meantime pray exhort Cockburn or Murray to keep you informed of the tone and bearing of individuals connected with the Government in Edinburgh.

If things go well here the old system of Scotch management is at an end; and I do not think it likely that Hope will acquire any very dangerous influence even with the aid of ——— to direct him.

Yours ever,

Minto.

Is it true that Aberdeen has given notice of an Entail Bill? He threatened such a thing to me some months ago.

18, King Street, 23rd May, 1827.

My dear Kennedy,

I had a long talk with Abercromby yesterday, and my impression is that all will go well with regard to Scotland. But we must admit that there are some difficulties to surmount in pressing for an Advocate over Hope's head. This, however, is so very impor-

tant, one might almost say so indispensable, that I think the effort must be made and urged as strongly as possible.

I will, if possible, to-morrow, take an opportunity of speaking seriously to Lansdowne of the state of Scotland, and propose, what he suggested, when I last mentioned the subject to him, that Abercromby and you and I and any others who may be desirable should meet him and talk the matter over. At any rate we must not take any strong steps without a good deal of consideration, as we might defeat our own purpose. Cockburn's letters are all admirable and judicious, and calculated to produce their effect, but *not so* Sir J. Dalrymple's, and I think it ought never to reach the party for whom it was written. I have not time to explain myself more fully. Pray preach temperance (I mean political) to our friends in Edinburgh. I write to none of them because the correspondence is better in your hands, and assure them that you and Abercromby and I are vigilant in all that concerns the welfare of Scotland.

I lose my dinner writing to you and must end, but we must talk of all this. Yours ever,

MINTO.

I will return your letters to-morrow.

From Henry Cockburn.

Edinburgh, 24th May, 1827.

My dear Kennedy,

This will be delivered to you by my friend Mr. Wylie.

He is a writer to the signet, and one of the circuit clerks of the Court of Justiciary, and has gone to London to forward a claim for an increase of salary. As I hold the claim to be clearly and unanswerably just, I have given him reason to hope that he and his brethren will not find you averse to do any little service that you easily can to forward their views. I believe that their object is gained, as soon as the Secretary of State can be prevailed upon to remit the matter to the Lord Advocate, or to the Court, or to anybody who will authoritatively bring out the facts. These clerks are the most useful, and by far the worst paid people about the Court. So be gracious and just, and oblige Yours ever,

H. Cockburn.

My dear K.

I entirely concur in all that is stated on the other side, both as an attestor of the facts and a supplicant for redress. Ever yours,

F. Jeffrey.

25th May, 1827.

My dear Kennedy,

Sir John Dalrymple leaves this to-morrow by steam for London. He is brim full of Scotch politics,

the whole of which he will no doubt pour out upon you; and well he may, for he understands us and has good objects in view, through good means.

Among other things, he will no doubt speak to you about Rae's successor, as he has done to me frequently within these few days, and therefore it is perhaps right that I should tell you the import of the last interview I had with him, after talking half-an-hour on the subject to Murray, five minutes to Jeffrey, and not at all to Moncrieff.

He and others say that if a Whig successor should be proposed, it must lie between one of us four, and that there ought to be some previous understanding as to the one whose claim is to be urged. I can't say that I see the necessity of this, and I anticipate (with Jeffrey) that there will be no vacancy. But assuming that there will be a vacancy, and that something should be settled, or verging towards a settlement, what I have told Sir John is this:—

I doubt if the office would be any object *personally* to any practising counsel who depends on his practice alone; and therefore independently of other considerations, I am clear that the personal feelings of the individuals and their personal interests, ought to be left entirely out of view. I am certain that there is not one of them with whom these considerations have any weight,—except perhaps to make them consult their own ease.

In this situation the real question is, what is best for the cause, including as an element in that question, what is most likely to keep the claim of Hope, if he makes a claim, down ?

Now this is plainly a matter which cannot be settled *here*. You and others in London who know best what is likely to carry *weight* with those on whom the move depends ultimately, are the only good judges ; and you ought to take the whole thing into your own hands, and consider us as clay.

If the matter depended on me, I would decidedly force Jeffrey to act. Though I am aware that there is one circumstance in his situation, the one to which he owes his immortality, which I am told, might be felt as an objection, of which I can't judge, but it seems to be nonsense.

I have given a Mr. Wylie, a circuit clerk, a letter of introduction to you. He and his brother clerks want more money, and it will be an absolute shame if they don't get it. They are as ill paid as the trumpeters. *But take care that no part of the increase is made to arise from fees exigible from prisoners.*

Mr. Solicitor General's whole manner and deportment, sentiments and looks, are changed. He has become, *ex facie*, a mild and gracious man. The kernel I believe to be the same. Yours,

H. Cockburn.

15th June, 1827.

My dear Kennedy,

We are all in raptures about the Bridewell: I am planning an invitation by the culprits, male and female, who are in it, to Messrs. Rae and Clerk, begging them, since they hold it to be perfect, to come and try a month of the mill. The mere improvement of that mushroom bed of profligacy is nothing compared to the utility (it gives me no pleasure—great pain—but the utility) of snubbing the noses of these gentry, and encouraging our citizens in that march, as it is called, which some people think is going on too fast.

I have had a thanksgiving in my heart all this day; and on Saturday and Sunday, we intend to pour due libations to the gods at Craigcrook and the Club. I almost wish they would withdraw the Bill; for by next Session, I am certain that they would be obliged to yield something more, if the expressed opinion of the people here be of any effect.

Never mind the Scotsman. He is ——, and is not the exponent of any party here. Perfectly honest, but want of sense and of knowledge, is a serious fault in the editor of a newspaper. He has done much good, however in his day, and may still do some more. I have no fear, however, of the general reasonableness of the intelligent classes here. Their expectations may for a moment be unreasonable from ignorance, but I am confident that they will ever be open to cor-

rection from knowledge. But something must be allowed for ignorance and the rebound of hope long held down and suddenly let loose.

It is of such importance to us to get a good English member to look after us, and I have such respect for the man, that I have done rather a presumptuous thing in writing to thank Sir James Graham for his services this Session on Scotch matters. I hope he won't think me impertinent.

If I had the doing of it, I would pay the justiciary clerks by sacrificing a Commissary. One Commissary, or none, could do the whole work of that useless Court, and there are four with £600. a-year each. I would abolish one, that is, declare that he should not be renewed, and give £100. to each of the three clerks, and £100. to each of the three depute advocates, who are underpaid also. The Judge Admiral, too, should be made to strike.

I begin to suspect that Mr. Justice Menzies's appointment was arranged before the present Government arose; still it was shameful. But a Beaconite had strong claims. It is after all, an advantage in its way, to get him sent off the country.

I am in despair at Horner's leaving us.* It is, I fear, an irreparable blow to the public cause here.

Ever yours,

H. Cockburn.

* Mr. Leonard Horner was at this time appointed Warden of the University of London.

From the Earl of Minto.

Minto, 15th June, 1827.

My dear Kennedy,

Many thanks for your letter, and pray continue to give me a line when you have anything to tell me of what is passing. The defeat of the Corn Bill was quite unexpected by me, not as you may believe from any very high opinion that I entertain of our Lordships, but because I understood that Government had secured a majority for it. I shall now be very anxious to learn what course is to be pursued. Unfortunately the defeat of the measure, though bad enough, is not the worst consequence of this vote, which must give an impression of the weakness and insecurity of the administration. Perhaps you may be able in your House to do something before the end of the Session to correct this impression.

I found people in this country, almost without an exception, satisfied with the Corn Bill, and though in many quarters a good deal dismayed at the apparent strength of a Government that did not include Lord Melville, upon the whole much pleased with the state of things.

I am glad that you have fairly launched the subject of Scotch Entails. But if we are to have a really good measure, it will be necessary to interest the Chancellor, and even if possible Eldon in it, when it is a little more matured, or like everything else that is useful, it will be destroyed in our House.

I trust that we shall see you on your way home. I have some idea of going to Edinburgh next week for a couple of days, and if I can manage to do so, I will let you know what symptons of insanity I find amongst our friends there.

Ever yours most sincerely,

MINTO.

From Henry Cockburn.

19th June, 1827.

MY DEAR KENNEDY,

I think it right to let you know that Menzies is at present in London,—what he would say about the toast I cannot tell. He is much misrepresented if he did not give it; for the rumour of his having done so is quite common ; insomuch so that *it is said*, that Gibson Craig communicated it as a fact to some friend or friends of Government at the time. It was said to have been given at the house of Mr. Allan of Hillside. In itself the thing might not be so bad; but there is something very disgusting in the adherence of all these office holders to their places, notwithstanding the undoubted hatred of their hearts to the existing Government.

I was glad to see you moving about Entails. That case must be pushed seriously, and well prepared, next Session. Ever yours,

H. COCKBURN.

4th July, 1827.

My dear Kennedy,

Playfair's name can *not* be used. No gentleman likes to be the discloser of private scenes, and Playfair is particularly delicate. I don't profess to understand all that the Evil Principle alludes to, but I rather think that this affair might be allowed to rest. *He* has eaten in—they have got a fright—and you have done your duty. My fear is, that if you drive them to a proof of the facts, we won't be able to establish the truth. We cannot make such as Playfair, if there were any such there, speak out; your —— —— and others who, I am told, were there, will to a certainty, give the same statement that Mr. Justice has done, and if his Lordship be covered even by one *gentleman's* word, what can such as Horton do, except profess to hold that Whigs are groundless accusers? But of all this, you must judge. Hitherto you have proceeded judiciously and effectually, and you must decide for yourself.

I agree with you as to Abercromby most sincerely. Scotland never had such a friend. There is no man, not even excepting Francis Horner, of whom I have so profound an admiration. And he always turns out the truer and the wiser by being discovered to have been sacrificing himself, unostentatiously, for great ends.

Oh for a day's talk with you! Don't you mean to

come here soon. I could almost take a run to Dalquharran to see you. But deracination from Bonaly during the honeymoon of our vacation is too much virtue for man;—unless perhaps for Abercromby.

Ever yours,
H. Cockburn.

Bonaly, by Colinton, 5th August, 1827.

My dear Kennedy,

You are quite right that this, be Advocate who may, is the proper time to put him on a right footing. The expediency of clipping his wings, or rather of altogether plucking him of the whole of his political plumes, and leaving him nothing except his bare professional feathers to cover his nakedness, is quite indisputable. I have repeatedly stated it to Abercromby, who understands it perfectly, and has mentioned it to me often of late, with reference to existing circumstances. I know no Whig who could be put into that office who would not be the first to urge its adoption; and if it be destined for a Tory, and particularly for Hope, its adoption ought to be laid upon him by superior force and explanation. I think you ought to press the propriety of there being a full and direct avowal of the principle on anybody in London from whom it would come with the greatest effect. The whole thing is so plain, that a single page, signed by the Secretary of State, would settle it in a moment.

He has only to announce, first, the Pro-consul for Scotland is abolished. Second, Scotch business is done at the British Boards, according to its kinds. Third, the Lord Advocate is a professional officer. Fourth, a direct communication may be had on Scotch affairs with the Secretary of State, particularly by the Solicitor-General and public bodies, without all percolating as heretofore through the body of a Lord-Advocate, or of a concealed and irresponsible Scotch Secretary. I am sorry to learn that the Fergussons, and some other good men, are dissatisfied about Hope being probably to be promoted. It seems to me that they are quite wrong. Not that Hope's *being* out of the way would not be an immense benefit. Would he were translated. But *putting* him out of the way, is, in existing circumstances, a very different thing; especially if, as I am told and believe, he has given Canning personal assurances of cordiality, and Hopetoun has given his adhesion as his hostage. It seems, however, as if all these speculations were likely to prove vain, for Providence seems to be opening no hole for Rae's head.

I have never thought it necessary to remind you of the irresistible claims of our friend Timotheus.* But remember that he says he will be satisfied with a clerkship of Session, which would enable him to do the public good still by keeping his present office too. Now take notice that Robert Hamilton must necessarily

* Mr. Thomas Thomson.

burst very soon. In order to guard against rashness in filling up the vacancy, the place should be bespoke and secured previously. I mentioned all this to Lord Minto when he was last in Edinburgh, but do you never lose sight of it. You know what the public owes to Thomson, and how necessary a provision for him is.

Let me hear from you about schools in due time.

Ever yours,

H. Cockburn.

From Viscount Althorp, M.P.

Whitfield, August 12th, 1827.

My dear Sir,

I never heard of Mr. James Mitchell of Market Harborough. I live eighteen miles distant from thence, and it is not likely therefore that I should know much of the inhabitants, and Mr. Mitchell may be a very respectable man without my ever having heard of him. I intend to stay here for shooting as long as I can, so that I fear I shall not be able to accept your invitation to cross the Tweed. I am sorry to say that Mrs. Ord is not well enough to dine with us, but she is going on well and improving in health. Canning's death has been dreadfully sudden, though he could not have lasted very long. His loss to our foreign politics will be beyond calculation ; but at home the fact of the King going on with the administration,

which is absolute annihilation to the Tories, gives one some consolation. There will be considerable difficulty in finding a man to lead the House of Commons.

Yours most truly,

ALTHORP.

From Henry Cockburn.

Bonaly, by Colinton, 21st August, 1827.

MY DEAR KENNEDY,

We have indeed made a most fearful escape; for which my heart is hourly on its knees to Providence and the King. I never doubted you would attend to Thomson, but keep your eye on the specific place. I saw Hamilton two days ago. He is quite ripe and must burst soon. Peel's being nobody is very pleasant; as is also the Great Captain's nothingness. Melville left this for London as soon as he heard of Canning's death, no doubt what for. As to Hope and Rae you may remember that I predicted from the very first that they would adhere *to their offices*, in all circumstances. The recent events have made no change in their conduct or views. Rae must stick where he is till a steadier place be got for him, and how this is to be got I don't see. I don't suppose there ever was such another example of a whole numerous class and party of men all acting, with external cordiality, under a system which it is quite certain that they inwardly hate. I heard from

Abercromby t'other day, he seems to think that the most has been made that was possible of the materials that existed. I am sorry to see him still fretting under his own official trammels. So both Hermand and Sir Harry are gone. It looks like a biographical story, but it is a fact, that each of them made a very characteristic remark when within a few hours of the last. Mrs. Fergusson was about to administer some spiritual comfort to Hermand, when he told her, "You need say nothing of that, my dear; I've made my peace with God—*in my own way*" *!!* Sir Harry's daughter thought him gone and gave a sort of scream, he looked up and said, "No, no ! not so fast, Kate ! we're not come that length yet" ! The Dean's eldest daughter is very ill. Eldin amazed everybody, by appearing at the funeral of the Baronet. He is quite gone in mind, though well in body. He thought they were confining him in the steam-packet, and ordered his carriage, and was only soothed by the hope of an action of damages when he landed.

I wrote to Richardson this very day proposing three journeys for his acceptance, one of which was to Dalmellington Loch, including Kilkerran and Dalquharran. Which of them he will decide upon I can't say ; but my present resolution is to see you sometime or other this Autumn. Ever yours,

H. Cockburn.

P.S.—Think whether the aerial system could not be applied to the woolsack.

Bonaly, by Colinton, 8th October, 1827.

My dear Kennedy,

I am exceedingly disturbed by your letter. On the one hand, your leaving Parliament is a very great loss to yourself—to those who wish to improve Scotland—and to the public. On the other, no man certainly is justifiable in ruining his private fortune for patriotism, or can be called upon to make himself inwardly unhappy for the good of his party. There can be no doubt about the principle on which you ought to act. The only question is as to its application. You ought clearly not to embarrass yourself in your private affairs. Now whether this can be avoided if you remain in Parliament, or whether your vacating your seat is necessary for your pecuniary independence, is a point I have no means of deciding. I have perfect confidence in your own judgment, and you say that your retirement is indispensable. On the other hand, my recollection of Thomson's views last time you talked of this, makes me suspect that he, and others, may be of opinion that you might manage in such a way, as to give the House all the attendance your duty requires without much expense. Whether this be practicable or not, I cannot say. If you be positively determined to retire, there is nothing more to be said. If you be not so determined, I would advise you to be guided by Thomson and Abercromby ; the last of whom was quite right in advising you not to be in a

hurry. Whatever you do, avoid the dangerous habit of letting the situation of your affairs prey upon your mind; a most degrading and gnawing habit. You had better resolve at once to adopt *any* scheme of economy whatever; so as to make you certain that you are in shallow water, and set your spirits and thoughts at ease. Should you remain at your public post, I trust that you and I shall yet do something more together for our country. Should you withdraw, our past co-operation shall ever be a source of pride and of gratification to me. Let me hear from you more on this (to me very important) matter before you resolve finally. Ever yours,

H. Cockburn.

4th December, 1827.

My dear Kennedy,

I shall answer you about Tailzies soon. Meanwhile let me tell you that Thomson has some reason to believe that Colin Mackenzie is meditating a resignation of his clerkship of Session, on account of bad health. He does not profess to have any successor in view, but of course his brother-in-law Skene of Rubislaw, will be aided by him in his efforts to get the place if he wants it, which, being a laird, of course he does. Minto has written *very* strongly to Lansdowne. I have done the same to Abercromby. Do you the same in the quarter you judge best. I spoke to Thomson to-day, and he is willing to accept of it,

which condescension (as it is) is very fortunate. You know the topics to urge, independently of his personal and political virtues. They are, 1st. His past public services in the records, which have been ill-paid, and have ruined his practice; 2nd. His future public services in the same line, which his being a clerk does not interfere with.—Sat verbum. Ever yours,

H. Cockburn.

P.S.—Colin's design is not yet avowed, and may not soon be realized; so everything as yet must be private.

From W. Woolriche Whitmore, M.P.

Hastings, December 14th, 1827.

My dear Sir,

Your letter followed me here. I shall have great pleasure in promoting the attainment of so desirable an object as a more effectual protection to the Salmon Fishery of the United Kingdom and I will, as you wish it, introduce the measure on the meeting of Parliament.

It has recently been stated to me as an objection to your bill of last year, that one of its provisions was to legalise Stake Net Fisheries in Scotland, where I understand they are now contrary to law, and that on this account a formidable opposition to the measure is to be expected from all parties having rights of fishing in the upper part of the Scotch rivers. I have

not the bill by me and I cannot therefore ascertain to what extent this object was a part of the proposed enactment. I shall be much obliged to you to state to me your sentiments on this subject. My own opinion is that it would be better to leave the law upon this point as it now stands and to seek alone for that effectual protection to the breed of Salmon without which its fishery cannot be restored to its former value. I have not looked at the question at all in relation to the relative merits of the river and sea fishery, and I should be sorry to involve myself in a discussion in which the rights of property as now established by law would be involved; other at least than that which an interference absolutely necessary for a general protection to the whole would necessitate. I should feel no objection to *support* a bill containing such a provision, as I can see no real injustice in it, but I should hesitate to be myself the author of the measure as I am not fully aware of the whole bearing of the question, and am therefore in no condition to fight the battle between these contending interests, and I greatly fear the attempt might entail the defeat of the more general and useful measure. I have thought it right to be thus explicit in the event of the bill of last year having contained the provision in question; whether it did so or not I am ignorant. In case you should feel this point of essential consequence, I should prefer putting off any proceeding

until you could bring the bill forward. If not I will introduce it immediately on the assembling of Parliament.

With respect to our agricultural prospects, my opinion is that the present low prices are much more attributable to the general stagnation in the trade in corn, consequent upon the unnatural and precarious footing on which it stands, than either to large stocks or abundance of the last harvest. When prices are unnaturally depressed abroad by the absence of general trade in the richest and most influential market of the world, as Great Britain is, and at a period when a change of system is anticipated, it is to be expected that all trade in corn other than that by which the daily consumption of the country is supplied would be suspended, Farmers are obliged to sell, corn factors lay in no stocks, hence a low price. It will I should imagine hardly continue when the present temporary glut has been got rid of. Wheat will probably rise in price in the spring. I have no idea what will be done in Parliament on this subject. Truly yours,

W. W. Whitmore.

From the Rt. Hon. W. Huskisson, M.P.

Downing Street, 26th December, 1827.

Sir,

As Parliament will certainly meet for the despatch of business on the 22nd of January next, and as

questions of the greatest importance will come under discussion at the meeting, I hope you will excuse my stating to you that a full attendance will be particularly desirable at the opening of the Session.

I have the honour to be, Sir, your most faithful and obedient servant,

W. Huskisson.

From Henry Cockburn.

Edinburgh, 29th December, 1827.

My dear Kennedy,

I ought to have answered your last letter sooner. The confidence it shows in me seems ill appreciated by so long a silence. But in truth I had nothing to say, except to warn you against despondency. I did not know that matters were in the state you appeared to describe, and I trust that your prudence and want of extravagant expectation, led you to a more gloomy view of them than was necessary. One thing you are signally wrong in. You seemed to hold it as certain that a trust necessarily tended to degrade the truster. In general it does, because in general it is the result of his own folly ; but where its necessity is his misfortune and not his fault, above all where the incumbrances are not of his creating, it is, and is held to be, only the evidence of his honesty and sense. Therefore let no such feeling disturb you. Whatever you may be obliged to do, don't add the appearance of

self reproach to inconveniences that ought to be free of it.

The Advocate has sent for the Committee of the Schoolmasters, who think that he is going to propose delay, till it be seen whether the bequest left them by Farquhar's will is to be realised. I have told them to go to his Lordship and to consent to delay, or even to urge it, provided its object be Enquiry, by a Commission or otherwise; but to object to it on his Lordship's supposed ground: 1. Because if he means to wait till the end of a Chancery suit they will be all dead before the delay be over. 2. Because their *legal* provision ought not to be lessened because a man called Farquhar chooses to give them a legacy. They are not to see him for some days.

Something must be done in 1828 ; were it only to pass an act continuing the present system for one year. But if there is to be no enquiry, this is unnecessary. So the practical fact to be ascertained is whether there is to be a Commission or not. Have you any means of ascertaining this ? It will be a permanent misfortune to Scotland if it do not take place, and if hinting won't do, Charles Grant or Government, ought to be asked directly to propose it.

I have told the Dominies that I would write to you and get your answer before their interview with Rae. So write.

Colin Mackenzie is going to attempt to resign *in*

favorem of his brother William, the writer ; and the said William is off to London to secure the job, of course through the ——, whose agents he and Colin have long been;— —— —— too, is a candidate, supported by ——, who having failed in the West Kirk, no doubt thinks he has a strong claim for success in his next effort. Think of his having the impudence to tell Jeffrey, that he thought that —— might get the Clerkship, and that Thomson would do very well with ——'s Commissaryship!—I have written both to Minto and to Abercromby—of these moves. I fear the —— influence, over which the Mackenzies, having various votes in a small Northern Scotch county, where that influence, in so far as it is local, lies, have a strong hold. But there are three impediments, I trust, in the way; Thomson's public services,—William Mackenzie's utter insignificance, and Minto's early application.

It is now Sunday night ; but I have laid out my skates for a glorious day at Duddingstone, to-morrow.

Ever yours,

H. Cockburn.

From the Earl of Minto.

Minto, 13th January, 1828.

My dear Kennedy,

What effect will this political crisis have upon your movements? I have taken it into my head that

there must be an adjournment for a week or two of the business of Parliament, in order to give time to fit the new men into their places. I have desired to be informed how this is, and shall sit still till I receive an answer.

If your time suits mine, I shall be delighted to take you, but it is fair to give you warning that I travel in an open carriage. At any rate, I hope to see you at least for a day or two at Minto, and I seriously wish you would prevail upon Mrs. Kennedy, to take up her quarters with Lady Minto. I am sure it would be good for both of them, but Lady Minto will write herself to Mrs. Kennedy, so that I need say no more.

I need tell you nothing of the circumstances that brought on this crisis, as you or your friends in Edinburgh must have letters; indeed, the newspapers have pretty correctly got at the truth. I cannot regret it. For though the mischief that may follow is incalculable, and though it is mortifying to see so good a cause, and one for which such sacrifices had been made, ruined by the continued misconduct of Goderich; yet, as I have for some time thought it quite desperate, and have been able to perceive nothing but compromise and humiliation and disgrace in the prospect before us, without a chance of keeping the Government much longer together, I confess that it is a great relief to me that an opportunity of escape should have been given to Lansdowne, upon such

strong grounds as this question of the Finance Committee. I have not heard from himself ; indeed he was at Bowood. Ever yours most sincerely,

MINTO.

From Henry Cockburn.

19th February, 1828.

MY DEAR KENNEDY,

As soon as I see Craig I shall sound him about enlisting Rosslyn and Lauderdale in the Entail cause. But my impression is that he won't interfere. I talked to him lately, and I thought he was rather shy about almost any specific reform, tho' like everybody else, clear that *something* should be done ;—but what that something was he could not say. I suspect too, that, having enough to differ about with these two Peers, he won't be disposed to introduce new topics. But we shall see. Several friends of the scheme I find are saying that Selkirk's calculation is erroneous in so far as it all proceeds on the basis of three lives, *each of the average duration ;* whereas they may all be the lives of infants, or of very old people; so that the really valuable interest may be in the fourth person, whom his project would annihilate. Their idea therefore is, that instead of *lives, fixed periods* should be taken ; as for example, that a third of the estate might be disentailed every twenty years. How would this do ?

The Schoolmasters tell me that they have had an interview with Rae and Home Drummond; and that his Lordship intimated that he meant to put the measure off for another year, on the ground that the College Commissioners were to *take occasion* to say something on the subject. Now, in the first place, I don't believe this. They have no time and no authority to make any proper enquiry. In the second place, he must introduce something to prevent the new valuations in Exchequer this year. The parochial education should have a commission for itself.

What are you all about now? Who's in? Who's out? Who's to be in next week? and who out?

Ever yours,
H. Cockburn.

From the Earl of Minto.

Minto, 10th March, 1828.

My dear Kennedy,

I want to know what encouragement you have received for your Entail bill, and what you prognosticate as to its success.

I see that both in Parliament and in this country an indisposition to attack existing Entails has been manifested in some quarters. What say Eldon, and the Chancellor, and the Scotch Lords in the House of Peers? If you meet with as much resistance as I fear is likely, I trust that you will make two bills as I formerly

suggested, and endeavour at least to carry the prospective measure. Independently of the importance of such a change, I am sure it would in a very short time lead to the other.

I have not yet examined the Bill very critically, but it struck me on reading it over that the language of some of the clauses is awkward and obscure. You have one or two tremendously long sentences with a parenthesis in the middle.

Does not the clause at the bottom of page 8 and top of page 9 for the protection of the Entails of Peers do more than you intended?

It could only be intended, I conclude, that they should be empowered to set apart and lock up a portion of such estates as were entailed on the heirs to their honours. But your clause would even apply to Peers whose estates were entailed away from their titles, and the portion once set apart, as the clause is worded, would not ever be disentailed even after the extinction of the title. Pray let me know what state things are in. How is Abercromby? I have not heard from him since I left town. My motions are still undetermined, except in so far as they depend upon Lady Minto, who does not feel herself yet strong enough to undertake a southern journey.

Ever yours, most sincerely,

Minto.

From Henry Cockburn.

18th March, 1828.

Mm dear Kennedy,

I ought to have responded about your Stubbings proposal sooner. I am much disposed to meet you half-way, if I can. But, at present, I see little chance of it. I am fixed here till about the 28th, and cannot be sure what may happen then. And I have not above eight or ten days after that to adventure upon. However, I shall try, and shall write to you. But I wish you would first write to me saying what your *earliest* and your *latest* days are; so that I may know the length of the tether.

So the good ship Tailzie is fairly launched. God send her a good deliverance! Retire when you may, Tailzies, Picking Juries, Salmon and Poor Laws will mark your progress.

We had an excellent public meeting here yesterday, to petition against the Test Acts. The Assembly room was packed full of true citizens. Sir John Dalrymple in the chair. Creefy, and M'Crie—the Law and the Gospel—the chief orators. Creefy was very hearty on the profanation of the Ordinance. The petition is to be sent off in two days, so it cannot be very *numerously* signed; but it will probably contain every respectable name in the place—saving always our standing army of Tories.

Watch Rae's Justiciary, and other bills, and let us see what they are. Yours ever,

H. Cockburn.

Do tell them to pension off The Speaker. We will subscribe rather than let him hurt his health. There are half-a-dozen at least here, who know the design, and it seems to me miraculous that it has not got into the papers—for old Horner is one of them.

14th May, 1828.

My dear Kennedy,

I don't return the draft of the Bill, because I have no lucubrations. I think it all right in principle; and as to the phraseology I sent it to Irvine, and I enclose you his answer. As to his concluding query, it seems to me to be entirely a question of prudence. If you can get the bill through, the less public discussion the better. If the want of discussion will be a formidable obstacle, let them discuss. The Bill seems to me to be excellent.

What *sugh** of the Jury Court job? It is said that the salaries don't look well. *Poor* Lord Gillies! One of Cranny's eyes is nearly out. But don't speak of this; because every defect in that person will be magnified, in order to afford an apology for not promoting him. But the fact is that, without any felt disease—or cause—he has nearly lost the use of one of them. He is

* Scotch for rumour.

otherwise perfectly well, and in good spirits, and it may come back again. I suppose he saw the difficulties as to Entails, when he spoke to you, with the failed eye, and the evils with the sound one. (I believe it should have been the reverse.) Shepherd has come down with a very judicial implement attached to his ears. It is externally a rope, but inwardly a flexible tube, which reaches from his ear to the mouth of the speaker, and is as long a hose as he pleases. His reaches (about fifteen or twenty feet, three and a half fathoms) across his court. It's great advantage is that no bye-stander hears the sound in its progress ; so he can be corrupted quietly. Could not you get one from Dalquharran to Windsor ? The Clerk of the Pipe is bound to supply you. The Club dines on Sunday. Appear. I see by the newspapers that Abercromby is in London. Remember me to him. I dare say he thinks me an ungrateful dog, for since he ceased to be directly workable, I don't think I have once written to him. But I shall ever remember his friendship and usefulness. Nothing interesting here. People seem to have great faith in his Grace of Wellington's liberality. May they not be often obliged to try it. Though no doubt things are much improved since this time last year. The liberality of our Beaconites, with Mr. Solicitor-General, leading and out-Heroding them, is very edifying. Write. Ever,

H. Cockburn.

Bonaly, 20th July, 1828.

My dear Kennedy,

The Tailzie project has made a greater advance already than in my wildest mood I ever expected. I confidently anticipate a Bill of some kind or other next Session, and any step in such a matter is of use. I am sorry for Rosslyn, who seems to have fallen not only behind the age, but behind himself. Lauderdale's opposition is only consistent with his own conceit and folly. May the conversion of our Edinburgh Member extend to other branches of his family! Aberdeen's evidence seems to me by far the most edifying and valuable. It is true, but I scarcely expected him to avow it, that his own bill was a job, which after serving his turn, he knew it would require another act to correct. No aid can be looked for from the Faculty or the Writers. I never knew either of them do any public good on public grounds, and the experiment would be rash. But "persevere, Maister Kennedy and never mind me."* —— is a paltry dog;

* This must refer to a story I had written to Mr. Cockburn as to Mr. Robert Downie of Appin, M.P. for the Stirling Burghs—an extraordinary man. When in 1822 or 1823, I had my Jury Bill passing through the Commons, on one occasion when it stood as an order of the day and I expected it to *come on*, and that a division would take place late at night, I happened to pass along one of the back benches on which R. Downie was sitting. He stopped me and said, "Maister Kennedy, that 's an excellent bill o' yours—that Jury Bill."—I replied, "I am happy to hear you say so, Mr. Downie—I had not hoped to have your support—but I think

always thought so, yet it is pleasing to see him selected, probably through Gillies as the organ for hinting to the House that the Scotch Judges are pining for want of aliment. A few years ago, Harry the Ninth would have given it himself, without Parliament, at least if a general election was at hand. Gillies is not improving. He was growling excessively the other day, at being obliged to come into the Jury Court for ten minutes as a witness; when Adam was sitting, and had been sitting patiently for a week, at the age of near 80,—and nearly blind,—upon no compulsion but a sense of duty, Amidst many great failings, that old gentleman has at least exhibited to the Scotch Judges a rare, I would say, a perfect, specimen of urbanity, patience, and a single hearted desire to do his work well. I had settled with Thom-

it will come on to-night, and I hope you will stay in the House that I may have your vote."—"Na, na, Maister Kennedy, that 's a very different thing—it 's an excellent bill, and I wish you may succeed, but if I was to vote wi' you and gang against the *government*, hoo could I gang to the Treasury next day, beggin' for eight and twenty thoosand *damned scoondrels*," (the people of the Boroughs he represented), "that would never do, Maister Kennedy—but *Persevaire*, Maister Kennedy, *and never mind me*."

Mr. Peel, then Home Secretary, did not oppose the Bill—so that Mr. Downie might have voted with me, but as far as I recollect, there was no division in the Commons, *owing to the part* Mr. Peel took. It was reserved for the House of Lords, in two successive years, to throw out the Bill, but it was afterwards passed. —T. F. K.

son to go to Dalquharran, and from that to Arran. But a letter from Stubbing has made me, almost positively, resolve to go there early in August. So, if I see you at all this Autumn, as I hope to do, it will be in September. Richardson is to join me at Stubbing, and if I can get him away from ploutering for Derbyshire trouts, I shall go to London and see Horner. A deracination from Bonaly, without example, and which people here consider as entirely visionary; and, to tell you the truth, this is sometimes my own prediction of the result, too. You rejoice me by what you say of the Speakership, for I was afraid that was all up. I would willingly be reprimanded at the bar on my knees for the pleasure of seeing him in the chair. No man's promotion has done the individual so much good as Thomas's. It has made him easy —less anxious, and (if possible) more profligate. His very insolence has abated. He is by far the most thorough, and the most popular clerk in the Court. And instead of turning up his lordly and offended nose at it, he likes it. People talk of Creefy succeeding Eldin, which is as yet but a mere speculation; and in the view of this, the alternative is between Hope and Jeffrey for Dean, both of whom have been launched in certain circles. It is evident enough which will prevail; though Hope's being Solicitor ought of itself to exclude him.—Glorious season. My roses are absolutely in showers. If I could get leave to work

one miracle, I would be very moderate. I should let all the rogues and evils of the world alone—for you know that in about 5000 years the schoolmaster will have banished them all;—but when I waked to-morrow morning, all the trees and shrubs of Bonaly should be full sized.—Till then adieu.

H. Cockburn.

Edinburgh, 24 July, 1828.

I was surprised to-day to see the enclosed still here. You ought clearly to get the Entail case taken up in the *Quarterly*, if you can get it done in the right way. If you shall think after that that an article in the *Edinburgh* would do any good, and if you won't do it yourself I shall be perfectly ready. I never expect any general move in Scotland among the gentry in favour of right measures, and shall therefore be very well pleased if they won't oppose.

Hope is just as natural under the illiberal, as he was under the liberal system. My friend Williams has behaved like a fool—and perhaps like something else. Will the removal of Canterbury to Abraham's bosom tend to unseat his son from the Speaker's chair ? I have as yet heard nothing from Richardson, and so am still unsettled. If he won't homologate, I shall certainly go and see you. Ever,

H. C.

18th November, 1828.

My dear Kennedy,

I have not heard from Abercromby for months, Craig got his letter and is sensible that he ought to have responded. But he failed at first because he wished to consult that calm and straightforward man Lord ———, and the result of this consultation is contained in a letter which I saw. The Lord is wild, He admits the existing law to be detestable *in principle*, but he holds that it does no practical harm, that entailed estates are better managed than unentailed ones—that the people evince, by their apathy in pushing the proposed bill and by their keenness to take advantage of the power of entailing, that they like the prevailing system—that all remedies are worse than the alleged disorder, and that he can't submit to "the robbery of "those having reversionary rights, for the pleasure of "living under a law more perfect in theory." So you see what aid you have to expect in that quarter. Yet Craig tells me that when Aberdeen's bill was passing this consistent gentleman told him that his Lordship was aware that it was a violation of the rights of future heirs, but it was right to do anything "for a slap at entails." Of course his folly will infect Rosslyn. It has not infected Craig, who seems quite clear, but whether he will do anything or not, I can't tell. I neither know Arniston's views, nor Maister John's. The less the Faculty interferes in any proper measure,

so much the better for the measure, therefore I hope they will be quiet now. The Writers named a committee some time ago, which committee is preparing a report, which will be chiefly drawn by David Cleghorn —a decided friend—who is aided by Irving. The approbation of the Shires has gone far beyond what I ever expected; so, "Persevere, and never mind me." I understand that Abercromby is perfectly happy, which shows that the softening of his head must have gone a greater length than he thinks. That's the fatal symptom. I have heard of no Adamitical jobs, jury or otherwise. The old gentleman is wonderfully well, immensely clearer since he cannot bother himself with his own notes, and full of urbanity and a desire to do his duty. Oh that Gillies had a particle of the zeal or sense of duty which makes that aged man sit day after day, and night after night, without an expression or look of discontent, trying dull causes. I had a turn with Pitmilly to-day. He has no intention of resigning, and it is very possible he may hold on a long while, for his general health is quite good, and his only ailment is a constant ringing in one ear. I advised him to let it ring, and only to hear one side of each case, (as not unusual with their Lordships) with the other. Yet he may be obliged to go sooner than he thinks if that ugly auricular noise gets worse. There are alarming rumours afloat about Sir John Connel. Gillies feels this. He is in terror — real,

genuine, honest, judicial, actual terror, for his salary, which he wisely foresees that the elevation of the learned knight won't tend to increase. I am very sorry for Bell, whose last chance this is. I see Hope's course clearly enough. Having made Creefy Dean, he will take the credit of kicking him upstairs as soon as he can, after which he does the Faculty the honour of becoming its head; and then in about five years, by which time his judicious father will be done, he does the country the honour of presiding over its supreme court. How very good Roland's appointment to be clerk of session is. In Thomson's case, poor Charles Ross had a promise from Lord Melville with which it was unhandsome in Thomson or Lansdowne to interfere, and it now seems that this promise is not effectual upon the promiser himself. We are all well here; an excellent club last Sunday where Corehouse remained eating devils till twelve at night. Thomson has got a bottle of very curious rum, on which account there is to be a convention of the faithful this night. Flint who went out with Stuart has returned. He left Stuart well on the 25th September at Saratoga, two or three hundred miles from New York; his ultimate plans are not settled, but they point westward. He preserved his external cheerfulness so well, that Flint, though he knew him before, never discovered that anything was wrong, till he told him two days before he was to come away. He thought he was on an idle tour. Great firm-

ness, and incredible folly. I anticipate as to the Catholics, a half measure that will give them more power, and by being half, more discontent. I should like to see the world without kings, bishops, or standing armies, and with a new house at Bonaly. Ever,

H. Cockburn.

Edinburgh, 21st November, 1828.

My dear Kennedy,

I return the three letters. You would perceive from my last that I had seen Lauderdale's before. In spite of my inclination to see you, I must in truth admit that I see no good you could do here worth the inconvenience it would put you to. I am clear that stirring the Faculty will do no good. As to Corehouse and Hope, I can't meddle with the last, and won't with the first. I know no two men who arrive at the same result, of dangerousness or impracticability, so decidedly by such opposite ways. I have no idea that Moncrieff either would or could try to manage Hope. The result of their interview would probably be that Hope would make him eat in his evidence. But I think that *you yourself* should try Cranny and the Deacon by a letter to each (legibly written) and let us see the result. From Corehouse, I of course expect nothing. But I should not wonder if you easily induced Creefy to speak to Hope, which will at least let us know how the land lies. Ever,

H. Cockburn.

From Viscount Althorp.

Wiseton, December 5th, 1828.

My dear Kennedy,

I have heard of the report that the Speaker is going to be married, and I think it most likely is true. But I do not think he will resign the chair in consequence. I think he never will do that unless they will give him his pension, and the Duke of Wellington having thought he did not deserve a pension before, will not I presume suppose that he acquires any very peculiar claim to one by marrying Mrs. Purves. I think however that it may prevent Sutton from being chosen Speaker again, and then we must be on the look out.

Parliament will probably not meet till February, and undoubtedly a good attendance on the first day will be very desirable, for though a division is not probable a good deal of debating is sure to take place. If the Ministers intend to settle Ireland in a satisfactory manner they will want support, if they do not I hope they will be met by decisive opposition.

With respect to your farming question, I am afraid I cannot answer it in a very satisfactory manner. There are three distinct sorts of pure Leicester sheep —Buckley's—Stone's—and Burgess's—I am of the Buckley school, and in our school Rennie of Phantassie, and a Mr. Bogue are the only persons I know of north of Tweed, but not having seen either of

their flocks, and believing that they are not flocks of very long standing, I am not prepared to recommend them. Mr. Robertson of Ladykirk, is a very old breeder from the Burgess school and has a very good flock of sheep. I should think his blood the purest Leicester blood in Scotland, but it is of a sort I do not like. My reason for disliking this sort is that they are too high upon their legs and too soft in their mutton. But they are very fashionable.

Believe me, yours most truly,

ALTHORP.

Albany, February 4th, 1829.

MY DEAR KENNEDY,

There will probably be no necessity whatever for a great attendance to-morrow, as I am happy to be able to give you the very satisfactory intelligence that the Duke of Wellington has determined to bring forward something for the settlement of the Catholic question, and that the subject is to be recommended to the consideration of Parliament in the King's speech; incredible as this appears, it is still undoubtedly true. Whether what is proposed will be satisfactory or not remains to be proved, but of course after it is mentioned in the King's speech, we must wait to hear what the plan is before we stir. My opinion certainly is that he will give Parliament, for without that, it would be folly to make

any parade of what he was doing. If he gives Parliament it will be the whole that is worth contending for, because the excluding the Catholics from office while you admit them into Parliament will only be making them the best and most independent members that sit there; and indeed I think the Duke will perceive this effect too clearly to allow him to produce it.

Well then the Duke gives us what we have been aiming at for twenty-four years. He is also curtailing the expenses of the country in the most decisive manner as I hear, and if these things turn out so, I cannot be in opposition to such a government. There is plenty of fault to be found with their Foreign Politics, but for me, conciliation and economy at home will cover a multitude of sins abroad.

Yours most truly,

ALTHORP.

From Henry Cockburn.

2nd March, 1829.

MY DEAR KENNEDY,

I am very glad that Tailzies are looking up. I don't see why *three* bills, unless they be, 1. For saving land as yet free. 2. For recovering that which is now fettered. 3. For burdening, providing children, etc. The great thing is to get *something* through. Break down the old reverence, and the rest will follow.

I suppose it is the Captain's success that has mollified Rosslyn.

Dr. M'Crie and the Provost — two saints—have united with Patrick Robertson—no saint—and these three are organising an Anti-Catholic public meeting here. If they call it, there will be a counter one, where Chalmers has engaged to speak, and for which he has already prepared a petition. Hope seems (the son I mean) to be very zealous for the Catholics; as much as his daddy is furious against them; but he can't subdue the piety of his fat friend Patrick, whose calculation nobody can understand. M'Crie and he make a very odd Holy Alliance.

Remember me to Abercromby. Is the Speaker to be immortal in the lower world? I am very glad that Peel is divorced from Oxford; it will weaken her and strengthen him. Whatever else you do with the Irish forty-shillingers, pray don't omit this occasion of slipping in a few words to correct the representation of Scotland. They will never be observed and will save a world of discussion.

Maitland and Keay are to be in London in about a fortnight. Have you found out anything about the salary or Jury court projects. Keep in concert with Rosslyn upon these matters, and don't grudge them pay so as they work in the right way.

I forget the name and address of your grass seed friend. I am going to sow the little bit of old garden

round the tenement at Bonaly, probably three-fourths of an acre, or less, and should as well have good seeds as bad ones, and therefore if so insignificant a job be worth the notice of his shopman, I should like to get enough from him. But don't plague yourself about it. Richardson will pay.

Campbell is here, looking rather aggrestic.

Yours faithfully,

H. Cockburn.

13th March, 1829.

My dear Kennedy,

We are to have a public meeting here to-morrow for the Catholics ; of which I think it right to let you know, as I suspect that the enemy intend to dispatch and present their surreptitious petition before the other can be ready, and to represent that as the opinion of this place. They have got eight thousand names, and may get any number in the way they are proceeding, which is by inviting the most ignorant of the rabble, previously exciting them by the most inflammatory handbills. Altogether it is the lowest proceeding possible, and forms a very satisfactory deathbed scene of bigoted Toryism and Saintship. They have not even a respectable bigot among them, except M'Crie, who naturally enough imagines that he is living in the days of Knox. His association with Patrick Robertson, is the Holy Alliance in an odd

shape. The conduct of Patrick and his crew is somewhat inexplicable. I mean the calculation they are going upon. But I believe it is nothing deeper or more respectable than the mere instinctive necessity of promoting anything which seems to tend to narrow the basis of promotion to its dear old limits.

Maitland, Keay, and Murray are all to be in London in a few days. Take care of them—in absence of their unconscious spouses. Do you hear what our president, Charles the Wise, is doing? I trust that Lord Rosslyn has his eye on Jury Trial. It is rather diverting to see the Solicitor, and others such, meeting in a dark room, in the old town, with the Radicals, to organise an appeal to the public, against intolerance. When they were discussing the place, I proposed the Pantheon, but they started at the very word. Don't forget "and in Scotland" in the clause giving all ten pounders a vote in Ireland. I hope you mean to give us a new Gas Company.

I beg my remembrances to Mrs. Kennedy.

I am afraid that your kindness about letters to Stratford is taken a plaguy advantage of. Ever,

H. Cockburn.

15th March, 1829.

My dear Kennedy,

Our meeting yesterday was most successful. In spite of exacting a shilling at the door, there were

about 2000 present, who were excited by Moncrieff, Jeffrey, and Chalmers, each in his very best style. The two latter excelled themselves. We had many Tories, and indeed everybody but bigots. 1500 had signed in two hours. We shall have certainly the whole intelligence of the place ; but in point of mere numbers, the opposite petition will beat us. Murray who left this for London to-day has (I hope) taken some placards with him which will account for this. The second edition of the *Mercury* contains the best account ; but there is to be a right one published to-morrow, which I have directed to be sent to you.

Ever yours,

H. Cockburn.

P.S.—Do ask Robin Downie to publish an account of his conversion, or to explain to his enquiring friends how he feels in a minority.

23rd March, 1829.

My dear Kennedy,

Many thanks for the seed, which will arrive in due time. I am nervous about the apple pie order he requires the ground to be in ; but I trust that the sward will not be utterly unworthy of the race it is to spring from.

I am sincerely and excessively annoyed about our petition not going to Abercromby, especially as a few

words, properly placed, might have easily prevented any disagreeable feeling by merely explaining our situation. For if it were to be done over again, I don't think it could be sent to Abercromby. The motion at the public meeting (which somebody pushed me up to make, because the person on whom that duty was fixed, could not be found at the moment) was perfectly immaterial, because the presenting of the petition, and everything, had been previously arranged by a Committee. Now you must observe that this Committee, like the meeting, was composed of an union of *all* parties, and we held it to be a sacred duty to strengthen the great cause by doing nothing which unnecessarily alarmed any one individual. *Could* we, thus placed, propose to ex-provosts and to Crown counsel, that this petition should be put into the hands of the very individual whose peculiarity and usefulness consist in his being the avowed parliamentary reformer of Royal Burghs, the patron of the citizens calling themselves unrepresented and the denouncer of Lord Advocates ? If we had, I should have expected to hear it instantly moved to send it to the member for the city, a Catholic voter, as was said ; and I really don't know what could have been said against this. The truth is that it required some steering to avoid this rock; and we would not have avoided it if Jeffrey had not stated that Mackintosh had written *expressing a wish to have it.* This

made the ordinary enemy unwilling to object, and so we got quit of the City member. But if Mackintosh had been Abercromby, it could not have been proposed, at least it could not have been carried, without making certain persons think that we were making it too much of a party affair.

As to Hope—it is ludicrous to talk of his feelings being too much deferred to. No man was ever required to swallow a greater number of more bitter pills, and he has suffered severely among his old friends for the company he has lately kept. I think that getting that man to address a public meeting—obviously in the hands of the Whigs—could not possibly be purchased by too much deference on minor points. Yet he neither asked, nor got, a grain of it. As soon as Mackintosh was fixed for the Commons, the enemy seeing one Dundas passed by, put in for another, and instantly named Melville for the Lords; and Haddington was slipped in before him, not in the least out of deference to Hope, but to give us the minimum of Dundasship, which I must confess I saw no occasion for,—quoad Haddington.

I am fully aware of the misconstruction which the proceeding is exposed to ; and God knows all we—and all liberal men in Edinburgh prize every opportunity of attesting our gratitude to Abercromby, and our confidence in him ; and we are perfectly alive to the expediency and duty of un-Derbyshiring him, and

keeping up our invaluable connection. But he will be the first to own that there is a higher duty,—to the cause ; and I am satisfied that in this instance, we have strengthened his influence, by strengthening the right cause, here,—though the management has required a momentary abatement of the system of making him our leader.

I wish I could explain all this to himself—but it is not a subject to write to him about. Do you explain it, however, to him, and to everybody, as you think proper. Ever yours,

H. Cockburn.

P.S.—I have, since signing the above, got the last anti-Catholic placard. It contains the two following elegant lines :—

> " The heart of the country is not ruled by *Hopes*,
> By radicals, whigs, or by lawyers, and Popes."

This, from his old friends,—is the effect of the *deference* paid to Mr. Solicitor-General.

Edinburgh, 2nd April, 1829.

My dear Kennedy,

I heard yesterday from another quarter of the misconstructions to which the blunder about our Petitions had given rise—and in so far as regards Abercromby, I am very much annoyed about them ; in so much so, that I have written to himself directly on the subject; explaining that, now that one sees it after it is done, both Mackintosh and Haddington were absurd,

that from the preponderance of Tories in point of number in the Committee there was no chance of him being named, that therefore it would have been very imprudent to have tried anything of the kind,—and that therefore this is not to be taken as any symptom of any abatement of the opinion of liberal men of him or of his Scottish services;—though no doubt all this ought to have been duly explained to him, particularly by me, at the time.

It is a delicate subject to write to any man upon, and especially to Abercromby, and I do not know whether I have done good or ill, by trying it. But I think it right to let you know the fact, in order that, if an opportunity occurs, you may do what you can to aid me in preventing him from imagining that we have intentionally neglected him.

I am told that giving the other petition to Haddington has also given offence to Lord Melville, and even to Peel, as it proceeds from a desire to re-establish the Huskisson interest! Lord help us. We seem to be in the days of Don Quixote and his mill. Is nothing drawn from the circumstance that the Chairman sat with the throne erected for George IV. in 1822, right over his head, and that I had on white trousers?

Except for Abercromby's own personal feelings, these dreams are not worth minding. But no good Scotsman can ever be too grateful or respectful

towards him, and it gives me great pain to believe that he has suffered one uneasy thought unnecessarily, by our fault. I wish I had half-an-hour of him.

I hope Tailzies prosper. It was right in these Protestant times to make the measure Trinitarian. Take good care that, as is often the case with Scotch Bills drawn in England, your phraseology be not unknown in the law language of Scotland.

The seeds have arrived. Also the six roses which I should have thanked you for before. They have been for some time in a perpendicular posture at Bonaly, much struck with the Pentland Hills. Mrs. Cockburn had been trying that engrafting last year—but had failed.

Let me hear from you soon. Ever,

H. Cockburn,

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*From the Earl of Minto.**

Minto, 11th April, 1828.

My dear Kennedy,

I am much pleased with your account of the Entail Bill Committee, and I have no doubt that you did right in going into the whole case there. I trust that Corehouse will make no difficulty about going up to be examined. His evidence would have more effect,

* This and another letter of Lord Minto's, at p. 224, have been accidentally misplaced. They belong, as the dates show, to the previous year.

especially in our House, than that of any other man, or body of men. He owes this effort to the cause as the first instigator of this attack upon Entails.

I trust that you will feel the pulse of the House of Lords, to ascertain how far you may venture to go, before you send a Bill up to us, as you know how willingly we are persuaded to defeat every good measure. What says Eldon, and how are Lauderdale and Aberdeen affected towards your plan ?

I expect to be in town by the 10th May, but I hope to see you here before that time on your journey southwards. I believe I shall travel with the family convoy, so that it is not likely I can manage to see Abercromby, but if I learn that he has left town, I may make the attempt, if it be only for one night.

I think it might be useful if in addition to the persons you have named, you could find any Tory lawyer who is at all known, to give evidence in favour of your Entail Bill. How is the Solicitor-General upon it ? I believe Fullarton is now in London. He also would be a good witness for you.

Ever yours, most sincerely,

MINTO.

From Lord Holland.

South Street, 16th April.

DEAR MR. KENNEDY,

The Chancellor not only agreed, but caught at the proposal, of seeing you and Loch, on the subject

of Scotch Entails, with eagerness and alacrity. You have only to write to him to fix time and place. I should myself, like to get a little *sense* (as we Etonians call it) on the subject. Is it clear that there were *no entails* before 1685 ? Has Laing positive and *contemporary* authority for saying that the fear for their estates, arising from the frequency of forfeitures, drove the nobility in 1685 into the measure of the Entail Law ? When and how was it found or not that the irritant and resolutive clauses were absolutely necessary to enforce an Entail under the Act of 1685 ?—and is not that fact a proof that the notion of Entail is abhorrent to the spirit and genius of the law ? With us at least I presume law or equity would absolutely enforce any provision of Entail, if obviously the intention of the entailer or testator, and not at variance with any positive law. I conclude that that great maxim of Scotch Law, (so distinct and even opposite from ours) namely, that "every "person called in succession under such entails is "himself an heir and has the fee in him," is a necessary corollary from all your system of real property and not introduced or created by the law of 1685—and I suppose that it is from that maxim that the necessity of the irritant and resolutive clauses flows.—Am I right in all this ?

We are, or rather shall be to-morrow, established at Holland House,—will you and Mrs. Kennedy dine

with us there, either on Saturday, Sunday, or Monday? and let us know by twopenny post which day we may expect that pleasure.—We dine about 7. Yours,

VASSAL HOLLAND.

I see upon reference to Kaimes's Elucidations, that I am wrong about the irritant clauses, and that although not created, they are specifically enjoined, and made necessary by the statute of 1685.

From Henry Cockburn.

Edinburgh, 1st June, 1829.

MY DEAR KENNEDY,

Glad am I to see your legible hand once more. Why have you said nothing of Tailzies? I only know by rumour what state they are in. I can never but rejoice in any good happening to old Rosslyn. His being Privy Seal, and Scarlett Attorney are agreeably symptomatic. But the Scotch Millennium seems to me to have arrived when I see the Chairman of the Pantheon meeting made a Judge, and the late editor of the Edinburgh Review Dean of Faculty. I call Jeffrey the late editor, for you perhaps know that he has announced his approaching retirement from the management of that great and powerful engine. It is a most graceful mode of giving it up—but, my God, what a change from the day he began it.—Hope could not have carried it without showing himself in contrast with a very awkward minority; but still his

conduct has been excellent;—judicious, friendly, liberal, and in as good taste as was to have been expected from the man. Your late discussion has deranged the gastric juices of fifteen supreme judges. This is perhaps not to be lamented, but I do lament what appears to me to be the total loss of the occasion. There never was so good an opportunity of stating useful truths, whatever opinion the stater may have had of the proposed increase,—but it appears to have been sacrificed to a mere senseless sneer at everything Scotch. Corehouse has a scheme, which he professes his willingness to go to London to expound, about a full and final adjustment of all our courts. You and I know how this will end. I fear that since they are not to get their aliment raised until all the reforms are settled, everything will be made to yield next year to the contrivance of devices to get them the appearance of more work, no matter how the work is to be done. I wish they had got their rise, and then being under less evil influence, the other measures would have had a fairer chance. I must discuss this with you leisurely and fully. How deplorable to see the law of Scotland given over to Best. —Gillies and his court, but particularly that court through Gillies, have made themselves so justly hated that even those who lament the late scene, do not disguise the satisfaction which the ruefulness and rage of these men gives them.

I trust that Mrs. Kennedy has been keeping stout. When do you mean to see Coila? It is only about an hour ago that Sir J. Fergusson passed this house in a red coat, on his way to Boyle's, whose daughter is this evening to be "put under the fetters"—(as Creefy would say)—to our cool friend Charles. We are all well here. John Tait (Crawfurd's son) is Sheriff of Clackmannan, an excellent person; so that opening for Rattray is closed. Is the great Captain secure? What a fool O'Connell is. Your roses are budding beautifully at Bonaly; but if we don't get a shower Sinclair's grass seeds will disappear. When they were burying Lord Buchan a few days ago, they, by a blunder, sunk him with his head to the East instead of the West. This made a stir, for some foolish people wanted him lifted and turned;—till Scott whispered "Just let him lye, since he's there. Odd bless ye, I knew the worthy Earl all my life, and I never knew his head right in my days"!! Ever,

H. Cockburn.

Do you ever hear from Abercromby? I keep him informed of what passes here, for I never shall admit that he is indifferent about us. I heard from him t'other day.

Bonaly, 18th July, 1829.

My dear Kennedy,

I ought to have answered your letter of the 2nd before this.

I spoke to Bell, warning him of course not to indulge in hope, or to imagine that anything beyond the gratification of curiosity was in view. He says that the exact fact is, that the Chief Commissioner came to him, and told him earnestly that if he would withdraw his opposition, obstacles to his promotion would be withdrawn, or rather would not be set up; but that the Chief did not say, nor does Bell know, that he had any authority beyond his own speculation for this opinion. Of course Bell *believes* that the Chief had good grounds for his suspicions, but this belief rests on mere conjecture. He does not wish what passed between your uncle and him ever to be disclosed. Knowing the men, I can't doubt that the Chief merely communicated what he had heard from, or saw in them;—but all this, you observe, is mere suspicion, and no use can be made of the circumstance.

We owe you much for your interview with Peel. I trust, and cannot doubt, that you opened his eyes, and I confidently look for its result in good fruits. You must renew the dose periodically.

Much am I refreshed also by your Stubbing tidings.* The confirmation of his health is the first

* Stubbing Court, Derbyshire, the residence of Mr. Abercromby. It appears from this and previous letters that the idea of placing him in the Speaker's chair had at an early period occupied the minds of his friends.

cause of satisfaction, his possible approach to the chair the next. What an event this would be ! How appropriate a reward ! How excellent a symptom of the state of public opinion ! If Richardson adheres to his scheme of coming down here that way, I should like to go up and join him there. But I fear that the fatal prospect of Richardson's daughter will disappoint all this.

Whatever other result may follow, you have given our old Tailzie system an irrecoverable blow. What do you mean to take to next ? Nothing more worthy or in these times less hopeless, than our damned representation. Do get us up the Hustings.

Horner is here, better, but would still thole amends. All others are well. The Dean in perfect health. Murray too fat, Fullarton has gone for two months, with his family, to read Stair, at Glenfinart, Lord Dunmore's place on Loch Long. The Chief has got over eight long days' trials with his usual vigour and urbanity. Rutherfurd, if not in Ireland, is just going. Maitland is in Galloway. Jeffrey goes soon on a long tour to England. How they will disdain our unsalaried Dean at Durham or Canterbury. I don't believe I shall have any call in your quarter this autumn, but Rutherfurd, Thomson, and I have an unsettled project of wilful invasion. Thomson's profligacy is as great as ever. It cannot increase. Poor Gillies!—Boyle has been unwell, and he has

been obliged to stay one day from Raith, for the Justiciary. Let the railers at salaries think of that. I hope these bad predictions about the Great Captain won't be fulfilled. Who would have supposed he would ever have been a popular minister? I saw Loch t'other day, off to Reay land. Ever,

H. Cockburn.

Bonaly, Colinton, 13th August, 1829.

My dear Kennedy,

Richardson bids me write to him as at Dalquharran. But in case he be only in your neighbourhood, may I beg you to send the enclosed to any place you may know him to be; I mean if putting it into the Maybole Post Office addressed, will, without further trouble to you, get it conveyed there. If he is to be in a day or two with you, keep it till he reaches you. I want to see him, and I want to see you, and I am trying to make a tryst. But I know nothing of anything of your motions, and I cannot *be sure* of escaping till the 22nd or 23rd.

Ever,

H. Cockburn.

From Francis Jeffrey.

Glasgow, Wednesday 17th.

My dear Kennedy,

Though I ought to go home, I rather think I must yield to your temptations. If possible we shall

be with you on Friday. But there is a monstrous trial to be here to-morrow, with 183 witnesses, and it is not clear that it can be finished in one day, although we are to begin at the inhuman hour of 8. At all events it must be very late, and consequently we cannot start early on Friday, so that if we do come it will probably be after dinner. It is more likely I think that we do not appear till Saturday—unless indeed I die a martyr to my profession, in which case I hope you will excuse me for not coming at all.

I long greatly to see Whishaw, with whom I have never been so lucky as to meet *in terra Scotica.*

With kindest remembrances to Mrs. Kennedy, believe me always very faithfully yours,

F. Jeffrey.

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*From the Earl of Minto.**

Minto, 15th November, 1828.

My dear Kennedy,

Do not accuse me of negligence in having left your letter some days unanswered; since I am only just returned from a raid into Northumberland where I went to attack the assembled squires about our Carter road.

I felt the pulse of our gentry in October about your Entail Bill, but did not find them sufficiently well-informed to venture to propound any resolutions on the merits of the measure, as anything short of

* See note, p. 215.

a decided approbation would have done more harm than good. But we appointed a Committee (composed I think chiefly, if not exclusively, of persons who are friendly to the Bill) to meet in Edinburgh, and confer with the Committees of other Counties. You should discover what Counties have appointed similar Committees and get them to meet and vote resolutions. The opinion that I have found most prevalent amongst those who have paid but little attention to the subject, is favourable to a prospective measure but against the invasion of existing entails. You must contrive to ascertain if this distinction is made in other quarters as generally as I have found it here; because in that case you would risk the loss of your Bill by pressing it as one measure.

I wish a short pamphlet, or a few newspaper statements of your plan were published, that people might better understand what is proposed. I think this would, if judiciously executed, reconcile many even to that part of the measure which they now fear.

I have not a word of news of any kind, and I doubt if the Duke of Wellington himself could tell you what he is to do. In great haste, ever yours,

MINTO.

From Viscount Althorp.

Albany, March 24th, 1830.

MY DEAR KENNEDY,

I am very sorry you are not here; and am still more sorry for the cause of your absence.

We are in a strange state ; acting together pretty well and likely to do so better ; but without any party views at all. I never saw people more inclined to be honest, and it is the first time I believe that a party could be brought to act together on an avowed principle of Neutrality, without any prospect of individual ambition. Yours most truly,

ALTHORP.

From the Earl of Rosslyn.

St. James' Square, March 29th, 1830.

MY DEAR KENNEDY,

I lament exceedingly the cause of your detention in the country, and there can now be no inducement to come up before the meeting after the Recess.

I shall be very glad, when you do come up, to enter into the consideration of the Bill for the transference of Heritable Securities, a measure in which I once before engaged upon your suggestion. At that time the Scotch lawyers opposed it, and if I recollect right, it was urged that it was not necessary to the purpose of saving the heavy Stamp Duty.

I cannot venture to say what is likely to be the feeling of Government upon such a question, and in the pressure of the present moment when no Minister in the House of Commons can have an instant to spare (scarcely to the urgent duties of his office out of the

House) it would be idle to attempt to draw their attention to such a proposition.

With respect to the establishment of a Provincial Bank I cannot venture to hazard an opinion, but I should feel certain that no charter could be given, which had the effect of limiting the responsibility of the partners to their subscribed shares only. There has been an indisposition to grant charters, and I do not see that any very great advantage can be derived from a charter, now that the law has provided the means of suing and being sued. But to this as to the other minor question, I see no chance of obtaining any attention till after the adjournment.

Yours faithfully,

ROSSLYN.

From Henry Cockburn.

Bonaly, 24th April, 1830.

MY DEAR KENNEDY,

A few weeks ago the spirit moved me to put upon paper various things that have often occurred to me on Scotch Law, and, thinking that it might at this present do some good, I sent it to Napier for his next number. Napier was here yesterday, and told me that he was afraid he would scarcely be out in time for the rest of the discussion in the Commons, but that he had sent a few copies of the article to London, and that you had occurred to him as the

person who could be most safely trusted with it. I of course concurred in this last opinion, and let him take his own way. But it has occurred to me since, to say to you myself that it is more problematical than he seemed to suppose whether it be calculated to do the good which he has specially in view, which seems to be to give our poor Lords of Session a lift with their salaries. I rather suspect that its anti-English tone may have an opposite effect. If he adheres to his design of sending a few copies to you, judge for yourself, and if you think that on the whole it is better, either for the salaries, or for the general measure not to push it before its natural birth, act accordingly, and don't mind what our friend the editor may say. The salaries is, comparatively, a very immaterial part of the business, but it has always seemed to me that the general tone adopted in the south as to our whole judicial men and system, is unfair; and, by degrading them, gives them no chance of public success even though each of our judges was a Corehouse. I have heard of no opposition to the bill except by Procurators, whose courts are to be abolished. I have a strong misgiving about jury trial, but my fear centres solely in Charles Hope, and the union being in itself right, this objection to it can't last long. I was in Galloway when Cutlar's effusion in favour of the Commissaries came down, and did not hear one person who even fancied that it was meant

for anything but a trap for Leatherhead's vote at next election. I trust that your own Bill is proceeding well. Richardson seems to be killing himself, as usual. Take care of your chief, the Dean, and keep Murray right. All his court of Sessional views, or rather feelings, are wrong, and their erroneousness can, I think, be obviously traced to irritation excited by the flagrant folly of one or two judges—chiefly Hope and Gillies—the first of whom from ignorance of his duty, and the second from abhorrence of it, have done half a century of mischief. Tell the King not to die. Let him know the risk he runs with the Devil for liberating Catholics and Dissenters, and even coquetting with Jews. The Devil likes discord. Could not you suggest to Peel that the only sure way of settling the salaries would be by a private and confidential audience with a committee of judges' wives, or even with one judge's wife. I am confident that Mrs. ———, would put him in the right way. As for Sir George Warrender, could he resist half an hour of Mrs. ——?

Lord how it rains! your grass, planted just a year ago, is beautiful—remarkably deep rich green.

Ever,

H. Cockburn.

Edinburgh, 26th May, 1830.

My dear Kennedy,

Whether our judges get more aliment or not, I have long been of opinion that such of them *as go*

circuits, civil or criminal, should at least be saved from the degradations to which they are now subjected, by having no accommodation provided for them at circuit towns. At present they get a room in the King's Arms, or Blue Boar, and may be seen struggling with their own macers in the stable yard, for the use of a key with a horn at the end of it. This indecency is prevented in England by making the sheriffs provide them with accommodation at the public expense, for they will never do it at their own expense. On talking accidentally with my friend Meadowbank on the subject I found that he had got a clause, or the clause on which the matter stands in England, and had sent it to the Advocate. But his Lordship (I mean Rae) though approving of that atom of the measure thinks that it had better proceed from some "independent member."

Now I really wish, if you approve, that you would go to him, and get the clause, and see if you can bring it forward. He will expect you, for I have told my friend that I have written to you. I don't put it on the judges' interest, but on public decency. It seems to me that £300 a year would do it all. £5 a day for each of the three days at each circuit town is £45 for each circuit, or about £270 for all the circuits throughout the year.

Yours in a hurry,

H. Cockburn.

27th May, 1830.

My dear Kennedy,

The enclosed is the clause I spoke about. Murray who seems to be an anti-salary increaser, is clear for this at least, and says that even Sir James Graham, whose golden age seems to be 1797, will agree to it.

Ever,

H. Cockburn.

3rd June, 1830.

My dear Kennedy,

Though the judges were to get £10,000 a year, I should think that they should not be *allowed* to live in disorderly houses—which they will do if decent places be not provided for them.

I take it for granted that his Majesty will put his veto on this and other measures by dying. Yet should he "Le Veut" it otherwise, I think it right to let you know that the Faculty of Advocates had a meeting yesterday, at which that learned body disgraced itself, by more than usual folly and riotousness; —in so much that the only effect it has produced among calm men who know its proceedings, is, that, in its corporate character, its opinion on these subjects is perfectly immaterial. I have got the whole of the resolutions of all its meetings before me, with a view to send them to you, but really they are too humiliating. They have carried that two judges are not to

be suppressed; that juries are not to be unanimous; that if both parties agree they may always dispense with a jury, and force the court to take the evidence and give the verdict, that there shall be four speeches by counsel at each trial; that the Exchequer shall be reduced to one judge, but that neither the Commissaries nor the Admiral shall be put down. Even ——— agreed in some of these follies, and proposed other things so wise and so ridiculous that his motions fell from want of a seconder. The only satisfaction is that the meetings have been very small and utterly riotous, with no discussion.

As to delay, there could be no objection to it, were it not pointedly asked solely as a mode of ultimately defeating the whole measure, and if there were any opposite project proposed. But except Cranston's Utopia, I have heard nothing propounded beyond these crazinesses. And even though delay were granted, it is tolerably certain that not one of those who wish for it will think of the Bill till they are started by the next debate in Parliament.

With respect to the measure itself, I approve of it all, and none of it seems to me to be new. The diminution of the judges is nearly fifty years old. The extinction of the Admiralty and Commissary courts has seemed to me, and I thought to everybody, to be proper, for thirty years; and the union of jury trial with the court of Session, some time or other, has always

been held out. These substantially, are the whole measures. The junction of jury trial with the Session I see, and have always seen, to be attended with very great *temporary* danger, because it will never work sweetly with Charles Hope. But every hour lessens this; the Chief Commissioner (never good as a judge except in manner and in intention) is now about done, and his two Lieutenants, Cringletie and Mackenzie, are so wretched, that even Hope can scarcely be worse. Then the arrangement is better than I ever expected, for instead of tossing it to the Court of Session anyhow, the jury judges, as such, are to be kept to that oar for three years, with only a gradual inoculation of the rest. All this does not prevent, but it mitigates the danger, as much as anything *we have a fair chance of ever getting* will ever mitigate it. I would much rather have a commission of selected judges for jury cases, taking care always to have one wild elephant for two tame ones, for perhaps ten years; but I think that the other scheme may do, and now that the Chief, who has been the great upholder of the thing, is closing, I fear that delay and senseless speculation may let the common enemy in and deprive us of it altogether.

I did go over all this with Rosslyn, but always with reference to an instant and total immersion of it into the Court of Session. The check of keeping it for three years (that is till Hope be done) in the hands of the existing jury judges, was never then talked of.

Old Rosslyn must undergo a curious change if he too be relaxed in his virtue.

I am delighted to hear that your own Bill is safe. I hope we shall celebrate its success over these large claret glasses that Rutherfurd remembers so warmly. Ever,

H. Cockburn.

Abercromby is well, in spite of his laborious office. I dare say he is observing very quietly and well. I took him to the top of Corstorphine last Sunday, and he is a Clubbist.

4th June.—I find that it is doubted to-day what the result of the Hotch Potch is; and therefore the Deacon is to concoct what he supposes the resolutions to have been, and no doubt will make them better than they really were.

Bonaly, 5th September, 1830.

My dear Kennedy,

I have a small job at Glasgow on Wednesday first, and one at Ayr on Friday. I intended to have sorned upon you on the intervening day, but I have been warned (of what I am perfectly aware) that my going so often near him and never to him, has given, and will perpetuate, offence to your neighbour Sir James, and therefore I have (always painful) made up my mind to sacrifice pleasure to duty, and have

written that if I get free, which, though very probable, is not perfectly certain, I shall be at Kilkerran on Thursday. But if you know that Sir James is from home, and if you are not in that state yourself I shall go to Dalquharran, and if he is to be at home, may I beg the honour of you and Mrs. Kennedy dining with me on Thursday the 9th instant at Kilkerran, and of coming as early in the forenoon as you can. If I could be sure of having Saturday to myself, I should spend all that day with you, but this, though not impossible, is so doubtful that it is needless to plan about it.

Write to me to the George, George Square, Glasgow.

Is it true that Charles X. is going to take up his residence in Maybole ? If Polignac can bring his head with him, (and his purse) I have no doubt he would be well accommodated at Appin. I should like to see the two ex-senators eating dulse.

Richardson leaves Jedburgh for London to-day. Remember me to Mrs. Kennedy. Thomas Playfair, and Rutherfurd, dine here to-day, and though it be not twelve o'clock the well is already filled with liquor for their insatiable maws. Did you know that strange old South country savage, Scott of Wool ? He once told me that on the morning after a Selkirk election dinner, his throat "was like a foul lum." Ever,

H. Cockburn.

From William Ord, M.P.

Whitfield Hall, September 23rd.

My dear Kennedy,

I want very much to find some one as much inclined to escape a November journey to London as myself, and I have a sort of presentiment that you will afford me a precedent. I really dare not stay away alone for very fear of Brougham, who, on a rumour that I was *doubting*, has written me such a letter as you never read! He has resolved to demolish the Duke the first day of the Session; and, if Whigs are so base as to disobey his call, he will head the Tories. But he does not condescend to tell me what I am to vote about, and I own I do not see what at present we have to put forward. As to France, they have behaved well apparently, and I suppose they will be reasonable about the Civil list—and for Regency I don't care a button—all other questions, I take it, must be put off till after Christmas, so I am disposed to find an excuse for staying in my hole. What say you?

What events have taken place since we met! Revolutions seem as common as showers of rain, and Kings tumble about like ninepins. The Frenchmen, to be sure, have covered themselves with glory. I hope it is all well over, though one never can tell. Belgium will not be so easily settled; they have not

there so distinct a grievance, and therefore the remedy is more difficult to discover.

What a horrible event, too, is this death of poor Huskisson! what a loss he is! And to what consequences his death may lead. Many people seem to think it will lead to a junction of his party with the Government, and it is not improbable; but it will not be very creditable to them, after the bitter attacks of last year. Some recruits I think the Duke must have to meet the member for Yorkshire, or rather one should say the member for Leeds, Huddersfield and Sheffield. For the *Shire* is evidently very indignant at being obliged to go abroad for a Representative.

I *hope* you have not had fine weather this year as well as last, or I shall positively hate you. We are worse than ever—very late and very bad crops—no turnips, no potatoes, no sale for stock, and, consequently, no *Rents!*

Let us hear how you are, and how Mrs. Kennedy is. Do you know anything of the Lansdownes? Are any of the Romillys with you, and can they be tempted thus far out of their way?

Mrs. Ord joins me in kindest regards to you and Mrs. Kennedy.

Believe me, yours very sincerely,

W. Ord.

From Henry Cockburn.

Relugas, by Forres, 26th September, 1830.

My dear Kennedy,

I have been hereabouts for a week, and am not in a *Scotsman* taking population. So I don't know what it says. The only change that has taken place in my views since I saw you is about the Review. Napier urged me, after I returned from Ayrshire, to get it out *instantly*, and stated what appeared to me good reasons against delaying; chiefly that he had every reason to believe that the subject would be forced before the public, and that it was very useful to get nonsense avoided, and the right tone adopted from the first. This also was Horner's clear opinion —who, by the bye, you will find no bad auxiliary in so far as discussion goes, though, in his situation, he cannot act. I therefore agreed—and, *unless you dissuade*, an article will be out by the end of October. I want merely to explain the facts, their consequences, and the remedy; so as to give sensible men right views before they get irrecoverable twists by the modesty of the tribe of John Douglas.

Your plan of moving for returns seems very good. The Cess Books will do you no good in the Counties; but surely there is some way or other of getting at the fact even there; for every £5. householder, or even lower, is *taxed*. They all pay the window tax, which

could be got at. With reference to the Shires, you should also get a return of the number of Freeholders, and the *Royal Burghs* should be kept separate from the mere towns, such as Paisley, which ought to come under the county, in order to show the true contrast between the actual and the proper voters there. I would get the return to state the numbers taxed at £5, £10, £15, and £20; in order to show what numbers will be excluded, every degree that the qualification is raised.

My drawing the bill is impossible, because I really don't know the nature and details of the necessary, new machinery, such as books, returning officers, clerks, &c.; nor can anybody know this who is so utterly ignorant as I am of England. Loch's bill settled all this, and I think that you should try to get it. You are sure of Ivory's help, and any other help you may require.

As to the Parliamentary leader, I know none in whom I could have more confidence than you; and this I should think was the general opinion. If I find that it is not so, I shall tell you so plainly. In the meanwhile proceed on the idea that this is your duty—and glory.

There are many who have a strong faith, as I have, in Sir James Graham, and I know, or at least am credibly told, that he is keen upon this subject. You should not only take him along with you, but let his

being so be visible to Scotland. I shall certainly take care that he knows we rely upon him.

End how it may now; it is our duty to begin the subject, and although I see clearly enough its tendencies on my own possible promotion, and would in prudence be silent, or not conspicuous, I cannot make myself so paltry as to be so.

Remember me to Mrs. Kennedy, and to my white Dahlia. Ever,

H. Cockburn.

From Sir James R. G. Graham, M.P.

Netherby, 26th September, 1830.

My dear Kennedy,

I quite agree with you in thinking that the public mind is ripe for the discussion of Scotch Reform, and I am glad that you have directed your attention to the subject. I was so deeply impressed with the necessity of not allowing this vital question to slumber, and of bringing forward some substantive motion in conjunction with a digested plan, that I had begun to direct my attention to the subject; fearing that no Scotchman was willing to undertake it; but since you are prepared to bring it forward, I am decidedly of opinion that, every other consideration apart, it is best placed in the hands of a Scotch Member, and when *you* are that member, nothing is

wanting to give full effect to the discussion; and you may rely on the most cordial co-operation, and every effort of the humble assistance which I can give. Of course I cannot judge of your measure until I examine it in detail; and considering your intimate knowledge of the subject and the powerful coadjutor you have had in Cockburn, I am almost afraid of appearing presumptuous, when I express an opinion. But since in the Scottish counties to effect a real reform, it will be necessary to create an entirely new Franchise, I am most anxious that it should be framed on a principle capable of easy application in England, where the County Representation must be extended, and where a great difficulty would be overcome if we could point to a successful experiment in Scotland, firmly established and in full operation. Taxation, I am disposed to think, must be made the basis of the new Franchise; and it will be prudent not to destroy any existing right but to enlarge and to extend. It is clear that the Scotch case is the strongest. I really think you will command a majority, and you must be the Pioneer in a march which, conducted with sober prudence and honesty, leads alone to safety and to exemption from the growing danger of the wildest theories, and even of national convulsion.

I have not heard from Althorp, and I have nothing certain to communicate. I was at Liverpool and saw poor Huskisson the evening before the fatal accident.

I am persuaded that he at least was firm in his determination to oppose the Duke, unless he would consent to an entire reconstruction of his Government, and until I see it, I will not believe that Palmerston and the Grants will re-enter the camp as mere subalterns, from which they were expelled as rebels for presuming to have an opinion of their own. I think there will be a division on the Address, and we ought to muster in full force on the first night: pray be in your place at that time. Ever sincerely yours,

J. R. G. Graham.

I wish you would come here on your way south. Lady Graham would be most happy to see Mrs. Kennedy.

From Henry Cockburn.

Bonaly, Colinton, 29th September, 1830.

My dear Kennedy,

1. Tell me whether there be any place or thing in England, *except the two Universities*, which return members, but towns or counties. It is a defect in Scotland that we are all Burghs or all Shires. But is there any analogy for anything else in England beyond the Universities ?

2. What county in England do you suppose has the smallest number of Electors—and what may this smallest number be? According to this year's Almanack

there are only about 3253 in all Scotland. Has any English county so few? Ever,

H. Cockburn.

Bonaly, 5th October, 1830.

My dear Kennedy,

I wish I saw Sir James's majority. But we shall positively see it one day or other. From his letter I perceive that we run some risk from English Members only trying to speculate on us for their own case. He seems, for example, chiefly anxious to found on Scotland for the sake of his taxation qualification. Don't let them disregard us whenever they discover that tho' we may be made better, they are not. I agree with you—and have always done so—about taxation being the true principle. But don't let us lose everything for that novelty. I don't see that we need care for subinfeudation. I would let the real proprietor *infeft for a year*, vote whether he held by subinfeudation or not.

I have sent the article to Napier. If he prints it, I am confident that meetings will be held. So you may make up your mind that the thing will be launched, and that it is in your hands. Achieve that, and die. Ever,

H. Cockburn.

Sheriff Court, Edinburgh, 7th October, 1830.

My dear Kennedy,

I have the *pleasure* of being obliged to sit here all day, and am now listening to the eloquence of Mr. Patrick Robertson—which I willingly relieve for a moment. Napier says that the article will be published, if possible, with the rest of the review, by the meeting of Parliament.

The only thing he has changed is three lines in which I had complimented government for its tendency to yield to the leaning of the times, which he struck out because it was inconsistent with other things in the review, which things he laments, but they are forced upon him (as I gather) by the Evil Spirit. The said Evil he suspects will be angry at the Scotch matter being *taken out of his hands*, the prudence of which however is one of the reasons why he is clear that we should begin early ourselves. On thinking of this, I am more and more satisfied that Brougham's being the leader in the measure would tend to excite alarm in Scotland, and that therefore, independently of your not losing an occasion which may be invaluable to yourself personally, you must take charge of it, on public grounds. So don't let the Evil slip in before you, and be prepared for anything he may say when, from the review, he begins to see that others are thinking of it. Eh ! how the orator is roaring, and

he hits the table so that I can write no more for its shaking.

Ever,

H. C.

Bonaly, 9th October, 1830.

My dear Kennedy,

I dined quietly at Riccarton yesterday, the Laird of which has just come from Harrowgate, where, among others, he saw the Evil. I was very much struck with the apparent confidence and knowingness with which he said that he was satisfied we would get a Scotch Parliamentary reform *this Session*. In so much that I (without connecting the thing to him) asked *when* he had been with Brougham, and found that it had been just two days before his dinner annunciation. I don't doubt that they talked of it together. And this like everything else, confirms me in the necessity of your *at once* taking it out of his hands. If the thing is to be carried, or well fought, it would make me eat my heart, that we had not the doing of it. Craig knows nothing of our schemes.

I had a discussion with him and others who were there about seizins. There is plainly an abuse there which ought to be corrected, but it is equally plain that the corrector will bring many hornets about him, from which I draw the inference that no one who takes the lead in the representation question should impair his strength by taking up the other at the same

time. He and they said that Rae was going to take charge of it.

I have got the article in proof. I hope it is not ominous, but the fact certainly is that I fell sound asleep correcting it. Ever,

H. Cockburn.

Bonaly, 18th October, 1830.

My dear Kennedy,

From what Richardson writes to me, as well as to Kerr, the Great Captain's radicalism seems not unlikely to save us the trouble of liberalising him. But I can't conceive it after all. If he does interfere be assured he will try to give us a high qualification, so high that *it must* be resisted. Oswald's £50, or any thing above £15 ought to be rejected, because it will not do the proper good, and if once placed wrong, it will stick there. I am glad that you have spoken, and that I have printed, soon enough to show that we were not slumbering. Dunlop is excellent, too high in his qualification, but excellent. I have written to Napier to send you the Review. But you will find nothing in it new to you, in statement or in view. Its only merit, if it has any, is in moderation, and in an attempt to analyse the effects of our existing system.

Let me hear from you as soon as you reach London and have felt the pulse. And why wait a week before giving your notice ? Ever,

H. Cockburn.

From Viscount Althorp, M.P.

Albany, October 30th, 1830.

My dear Sir,

I will be at Brookes to-day at 3 o'clock to meet you. Yours most truly,

Althorp.

From Henry Cockburn.

Edinburgh, 3rd November, 1830.

My dear Kennedy,

I have due faith in the wise men of the South, but I think that Brougham is crazy, and that the Whigs going on supporting government to such an extent as to exclude the high Tories was possible and would have been better. But we shall see. I never for a moment believed that the Duke was to turn reformer *yet*, especially after being told by the said Brougham as Opposition Leader, that he was to be opposed on the *irremovable* grounds of personal illiberality and incapacity. So we must do it ourselves.

I am glad it is to remain in your hands. In better it could not be. If there be any truth in Stafford's conversion, (which I should doubt,) surely Loch will give you his bill and vote.

I have seen Ivory and talked to him fully. His going to London before March is impossible.

My plan is this. To call a Committee here and

arrange with them, then to call a public meeting, there to resolve that reform is necessary; that a committee be named to conduct the case and to correspond with other places, and that a subscription be opened. The Committee must be well selected, and have a good Preses and Clerk, and if it does its business well the full effect ought to be produced. We cannot yet fix on a right working man. Willie Bell is excellent in many things, but under an unlucky odium of jobbing and over labouring. Yet I suspect that he will be the man, and if directed he will do very well. All this I expect to get set a going in about a fortnight.

If you stir Glasgow, Ivory says McGregor the writer is your man; sensible, true, and well with the Town Council.

As to the Bill, I shall try to put down the marginal index of the necessary clauses; but nobody can do even this properly who does not know the English machinery. It must be done by Richardson and Bell—if the latter be fixed upon.

Write soon, constantly, and fully. Ever,

H. Cockburn.

Edinburgh, 8th November, 1830.

My dear Kennedy,

A provincial man is very apt to go wrong on these matters; but I won't be convinced that the Duke could not have been kept forcing right measures

on the Tories through the Whigs, and that this was the best course, till I see the result of driving him and the Tories into their natural alliance, which in spite of Winchelsea, I fear will be done. But we shall see.

I have this day broke ground by summoning fifteen of the faithful to a meeting to be held to-morrow. They are the Dean, Murray, Rutherfurd, Ivory, (lawyers) ; Scott, Black, Spittal, Allan, Ritchie, Craig, (citizens), and Gibson Craig, David Cleghorn, Will Bell, George Combe, Mansfield, (writers), and Dr. Maclaggan. Some demur to the necessity of a meeting, but we shall hold one, I think on Saturday s'ennight; and after that shall go on as I said before. Ivory will be convener of the Committee. Bell won't do for Secretary. It lies between Combe, David Cleghorn, and young Gibson Craig acting under his father's name. Combe, tho' the phrenologist, is an excellent, true, sensible man. Craig thinks himself too hackneyed. On the whole I anticipate that it will be Cleghorn, than whom there cannot be a better.

His, or anybody's, going to London at present, cannot be fixed, or even talked of till we see how the subscription comes on. But if it is to be made a matter of business, I cannot see why Richardson should not be able, with your help, to draw the bill, and to aid you with a clerk in correspondence. If even Cleghorn were now in London, what would he do, as to drawing

bills, which is not his business, but turn to a solicitor? Send us the best that you and he can do, and we shall do what we can. At present I can do nothing, because I don't know what machinery is necessary. Is getting Loch's bill hopeless?

If two bills be thought necessary with you, let there be two; otherwise one might certainly do.

I can't imagine what Richardson's difficulty about towns, not burghs, is. We must not yield that point easily. Is it not English?

I would do nothing with Shetland, but give the qualification generally, not excluding them. If this does them no good because they have no member to vote for, this is a new case, not ours—and must be treated separately.

The alternate counties ought to be destroyed; that is the alternation should be destroyed. The member is constitutionally the member for *both* counties, tho' only elected by one, and *if any change in this respect is to be made*, it ought simply to be that the electors of both should vote at each election. But this too, being a separate point from the main one of extended franchise, had better be let alone also. In short, I would adhere strictly to extension of franchise being the sole object of this measure.

Will your returns distinguish voters on property—from those in superiority—life rents, from perpetuities, &c.?

The proper qualification of the candidate does not seem to me to be attended with difficulty. We have (and under the wisdom of our ancestors) a rule on this subject already, and I would simply adhere to this rule. That is, I would let those be eligible hereafter, who are eligible now, and no others. This would exclude mere ten pounders, and yet save us from the aristocracy of the English £300 or £400 a year, in land.

I trust that they won't break out in Glasgow before we do it. They are not so safe. What the devil made Bannatyne miss?

Bell since I began has sent me his lithographed circular, which I suppose you got, dated 25th October. * * * It will be Davie Cleghorn. Bell is to be here in half-an-hour, so I shall stop till I hear him.

He is gone. Talked mysteriously of doubts and complicated schemes, and fears, &c. &c. All I thought with a view to have them removed by his being constituted the remover. It shall be Davie.

If the Captain be obliged to retreat, have you settled who is to advance?

There is an objection to Lyon, which you are not aware of. He's dead.

Tell Mrs. Kennedy that the dahlias have arrived—for which thanks. Ever,

H. Cockburn.

From Henry Cockburn.

14th November, 1830.

My dear Kennedy,

If they were disposed I don't believe that there would be any difficulty about the County Returns, because the Tax Collectors must know who are rated for lands or houses of £10. But, on the whole, rather than run any risk, I would move for the return only as to Burghs, and confine the County one to the number of existing voters. This, contrasted with the population returns, will show the system.

Murray, on whose application I know not, has sent a draft of a petition to Ayr. If Drummellan, or anybody, applies to me, I shall willingly help him.

I rejoice in Kennedy's conversion, and never expect good from a Lauderdalian.

Thomas seems to wish for only a very moderate measure indeed about seizins. He seems to me to have changed his view a little, if I understood what his old view was.

I have written to Richardson about his doubt. We are still waiting here till the panic be fully over; and in consequence of Abercromby's advice, I want them to move first in Glasgow, if they can safely; to which effect I shall write to Shieldhall to-night, and make Ivory do so to Dundee.

I shall be very anxious for the result of your Tuesday's work.

I was very sorry to hear of poor Cullen's fate. Though with some defects of head and manner, he was a warm hearted excellent person. Ever,

H. Cockburn.

18th November, 1830.

My dear Kennedy,

The tidings of the Captain's rout* reached us this forenoon, while a very long and very dull speech was under delivery by Mr. Solicitor General. The fact was communicated to Thomas on a slip of paper, which he very wickedly slipped up to their Lordships, and the effect was very curious.

William Dundas's† insane * * * has done much good; and you need not doubt the public opinion being expressed. But I see that Edinburgh must move, for McGregor and Shieldhall assure me that it would not be safe, owing to probable intemperance, in Glasgow. We shall therefore only wait till we see what the issue of the late events is. Meanwhile I wish you would advise me whether, assuming that a Reforming Govern-

* The Duke of Wellington's ministry had resigned on their being defeated in the House of Commons by a majority of 29 on an Amendment moved by Sir Henry Parnell, to refer the consideration of the Civil List to a Select Committee.

† M.P. for Edinburgh. He had declared in the House of Commons that "the people of Scotland were neither in favour of vote by Ballot, nor of Parliamentary Reform."

ment is formed, it would like meetings or would prefer being trusted with the thing in its own hand. I only ask this because my ignorance of what is felt at head quarters, and experience of its effects, makes me afraid to do harm; but I have no idea myself that any Government can be anything but the better of knowing the public sentiment.

In the new arrangements don't let Scotland be overlooked or forgotten. She must be reformed in her representation, her Boroughs, her tone, and you know how little anyone cares for these beyond yourself and a few.

Keep the Burghs in your eye, as your next object. The subject was buried last time in details. But if I had another walk with you and Drummellan, I think I could satisfy you that it might be made a very short and easy matter.

I have arranged with the true men of the west for meetings in favour of your Bill, of the *Commissioners of supply* of Lanarkshire and Renfrewshire, who are sound. Ever,

H. Cockburn.

19th.—I forgot yesterday that there was no post today. The delay has brought me your two last, the one of which is burnt. I tried after this to get hold of the Chief Baron, but could not, and I have not seen him lately. I wish he were at head quarters, perma-

nently if the Government is to stand, and even for a week to advise.

As to the contents of the burnt note, Murray got a letter from Brougham to-day on the same subject, containing some absurdity, some sense, and much kindness. The chief absurdity consisted in enquiring if we were all sound politically, and whether John Hope could not be kept ! ! ! But his principal enquiry was how the Dean, Murray, and I, felt as to the offices of Advocate and Solicitor, the last of which Hope has resigned or offered to resign. We three held a wittenagemote which I wish that the slaves of office had seen, for three more disinterested fools, they have no idea exist. This conference was necessary, because B. asked a specific answer, and Murray wished to be able to give it.

I don't know what Murray *will* write, but if he be accurate, as no doubt he will be, all that he will convey as from Jeffrey and me, is that we are not thirsting anyhow, but are ready to do good in any way that may be thought right, and that we can say nothing more specific till a specific proposal be made. Part of this was mere caution in reference to B.

But I must now tell you truly how the thing stands. I have—I mean Mrs. Cockburn has—nine children, and somehow or other there is every appearance of a tenth, and if I were rouped my saved worldly substance would probably be about £7000, including this

house. That is, but for my profession, I am a beggar. The office of Lord Advocate nearly ruins the practice of any Counsel, it leads him into great expense, and obliges him to lay out at least one third of his salary yearly or so, in getting or keeping a seat. In these circumstances, nothing but *necessity* to the cause, will ever make me Advocate. Especially as I would now begin the new line so late in life, that I know best how little useful I would be in it, in London. But I have never hypocritically affected indifference to professional preferment, but on the contrary avow that I hunger for it, and that the honour of being John Hope's successor is what I want. Besides its other recommendations, it is the situation in which I could be of most Scotch use. These are my present feelings, but I am open to reason and to duty.

Jeffrey has a little of the same repugnance to the Advocateship, but not by a hundred degrees so much; he is rich; and if asked, will accept. But he is far more anxious to push me on, in any way, than himself.

I have no right to speak for Murray, but I may tell you that he says positively that he will take no office, at least none of these. He won't on any account let himself be preferred, anyhow, either to me or to Jeffrey.

These being the facts, the result is Jeffrey Advocate and me Solicitor. For as to Brougham's crotchet about

Hope, it is too absurd (though Jeffrey's facility won't let him say so) to be talked of.

You seem to indicate that Jeff is not to be. Why I can't conceive. And this is a point not to be conceded. Murray is so clear about its being the Dean, that any doubt of it seems to make him think it a duty for everybody to decline in concert. This is nonsense. But don't yield Jeffrey, who is by far the fittest for the place; and in saying so, I am confident that I am not prejudiced by my eye being on his first lieutenant's situation.

I wish there was some communication established between us and the arranger, whoever he may be, of these matters. For if any one of us were to-morrow to get an official letter, we would either refuse, if we could say only yes or no, or answer by a written proposal, and *to whom is this to be made?*

Don't take your eye off the Burghs. Rather secure them by a notice for next session before this one be done.

Ever,

H. Cockburn.

Richardson has written to me on the same subject. I have not time to write to him fully, but shall refer him to you for my views, and if he wishes to know them you can communicate at your discretion.

From Sir James R. G. Graham, M.P.

Grosvenor Place, Thursday Night.

My dear Kennedy,

I entirely agree in the paramount importance of a good arrangement in the quarter to which you refer: and I will not fail to mention the subject at the right time to the right person. In haste,

Yours most sincerely,

J. R. G. Graham.

Memorandum of Proposed Reform in Scotland, sent to Lord John Russell, November, 1830.

At Lord John Russell's desire, I sent him this paper. I had myself given notice in the House of Commons of a motion respecting Reform in Scotland,* and this was the outline of the plan I meant to have proposed. When the Government announced their intention to undertake a general plan of Reform, I at once surrendered my pretensions, and supplied these hints for their consideration.

T. F. Kennedy.

The object of an extension of the Elective Franchise in the Counties, Cities, and Burghs of Scotland must be to give satisfaction to the people of that country; and it is conceived that this may be done by extend-

* See Votes and Proceedings of the House of Commons, October and November, 1830.

ing the Elective Franchise to those classes, who possess property and knowledge. Much more is demanded by many, but it is hoped that it is not yet too late to make a change in the Franchise, the limit of which shall be the possession of property and intelligence; but any plan must be objectionable which, by keeping the Franchise very high and exclusive, fails to give satisfaction to the middle and respectable ranks of society, and drives them to a union founded on dissatisfaction, with the lower orders. It is of the utmost importance to associate the middle with the higher orders of society in the love and support of the institutions and government of the country.

It is essential to avoid the recognition of separate interests in the state, to blend all interests in various proportions, and, above all, not to hold up the landed aristocracy as an odious class, having a separate interest and a distinct power in the government of the country. Much more might be said on this topic, but keeping it in view and setting aside for the present the question of any alteration in the distribution of the forty-five Scotch members, it is suggested that the representation of the Counties might be thus placed upon an excellent footing.

1st. That the right of voting, however objectionable in many respects under the existing law, shall be preserved to those who do now, or may in future time exercise it. Interference with property is thus avoided.

2nd. That an extension of the Elective Franchise shall be effected by conferring a right of voting on all persons *resident within the County*, and in the possession of the *Dominium Utile* of land, (*i.e.* the perpetual fee or feu of the property), of the annual value of £10.; also in those having property, (*i.e.* perpetual fee or feu), in towns and villages (not being Royal Burghs) of the annual value of £20., founding this distinction in point of value, on the fact that property consisting principally in buildings is perishable, and not of the same value as land.

By this arrangement the Franchise would be vested, 1st, in the existing voters; 2nd, in all persons who now possess or may acquire, under a *perpetual* right, portions of landed property; and 3rd, in those persons who now possess or may acquire a perpetual right to property in towns and villages, and who do not partake in the representation of the Cities and Burghs.

It is apprehended that such a system would give universal satisfaction, except to a portion, and that perhaps a large one, of those persons who possess the present monopoly of power, and return the present representatives of Scotch Counties. But the object of any change in the system must be to break down such monopoly, and to afford to the *enlightened* people of that country a free choice of their representatives in Parliament.

The admission of persons possessing property in

towns as proposed is, besides essential to counteract the power of those persons who now possess votes, but who have *no residence* and *no property*, except the bare right of voting for which they may have paid a very high price in many of the counties. Many considerations of great importance might be added.

The thirty representatives for Counties are apparently returned by 3,227 electors, but as many persons have votes in different Counties, the absolute number of individuals is, 2,304.

It is proposed that all persons possessing the Elective Franchise should be registered in districts of Counties consisting of the parishes, alphabetically arranged; and that certificates of registration should be the evidence of the right of voting. That a simple and cheap mode of determining the validity of individual franchise should be provided, for which object the local institutions of Scotland afford very convenient facilities. That at the Elections, the votes should be taken on the same day, and either in the same district in which they are registered or at the County Town.

Were an amelioration of the representative system carried into effect in the Counties of Scotland, on the foregoing principles, it would seem proper and just that the existing exclusion of the eldest sons of Scotch Peers from seats in Parliament should be removed. Also that a qualification in Counties should be re-

quired of the *Dominium Utile* of land to the amount of £500. per annum.

Of the fifteen representatives returned by the cities and burghs of Scotland, one is returned by the Corporation of the City of Edinburgh, independent of any other town. In the case of the City of Edinburgh, it is proposed that the franchise should be vested in the resident inhabitant householders, occupying a house and premises of the value annually of £10. and upwards, and for the purposes of election that Edinburgh should be considered to comprehend the entire town with Leith as its seaport.

That registration of voting should take place in districts or parishes as in the counties.

With respect to the fourteen districts of Royal Burghs, consisting some of four and some of five burghs, and in all of which the corporation of each burgh elects a delegate to vote for the representative in Parliament,

It is proposed that the system of delegation, by which the smallest burgh is of equal power with the largest and most wealthy city in Scotland, should be abolished and that a direct right of voting should be conferred on inhabitant householders the same as in Edinburgh; viz., all persons *resident* and occupying a house and premises of the annual value of £10. That the voting shall take place in each burgh, and the majority of votes in each district shall return the member.

Thus in the Glasgow district, Glasgow could not fail to return, as it ought, the Member to Parliament, while each man who ought to exercise such a right, would in each of the minor burghs possess his individual franchise, proceeding always upon the supposition that the franchise determined on, is that which is fit and proper.

There is in this plan a principle of adaptation to the progress of time in respect of wealth and prosperity, an innate principle of expansion and contraction depending on the advance or decline of each city or burgh.

It is humbly believed that such a system of extension in the elective franchise in Scotland, would give entire *ultimate*—probably *immediate*—contentment to the people of that country, uniting the middle to the upper ranks, and giving assurance to the lower orders that their interests would be protected. A most confident opinion is entertained that *a less extended* franchise would fail to produce these results.

Under such a system that country would be inaccessible to discontent, and would give strength to the remainder of the Empire.

Thus far an extension only of the elective franchise has been adverted to.

Further and great improvement might be made were a change for the distribution of the Members of Scotland, to be taken into consideration. It might

be found that in some of the districts of Burghs so small a number of electors would exist that they ought not to return members to Parliament, and it might be deemed proper to transfer the representation, conferring on those in such burghs who might be found to possess it, the county franchise.

In particular this applies to the eastern district of Burghs in the county of Fife.

Another view presents itself respecting the Counties sending members to Parliament alternately.

Caithness is united with Bute in an alternate representation. Let Caithness be united to Sutherland, the peculiar circumstances of which County respecting representation would seem to render such a measure not unfit.

Let Bute be added to Renfrewshire or Dumbarton.

Thus a representative would be obtained, might be transferred and given to Glasgow, and Paisley might take the place of Glasgow in the district of Burghs, thus removing it from a participation in a County representation.

Cromarty might be added to Ross.

Nairn might be added to Moray.

And thus a member would be obtained, might be transferred and given as a second member to Edinburgh, which including the commercial interests of Leith, and considering that it is the metropolis of Scotland, would be most desirable.

The counties of Kinross and Clackmannan, being near to each other, with the addition of a portion of Perth which adjoins to them, and is disjoined from the remainder of the county of Perth, might for the purposes of election (as Kinross and Clackmannan already do for the purposes of legal jurisdiction) constitute a County and have a permanent representative, thereby avoiding the absurdity of alternate representation.

If the eastern district of Fife burghs were deprived of their separate representation on the grounds before stated, it might be conferred on Dundee, a town eminently entitled to consideration; and the district of burghs of which Dundee is one, reduced from five to four burghs, all of them being places of some note.

Reference may be had to a list of the Counties of Scotland, with the number of freeholders existing in each, which accompanies this paper.

An attempt has been made to state as concisely as possible some important considerations touching the representation of Scotland. Each point, no doubt, is deserving of very ample consideration and full explanation.

Aberdeen	184	Cromarty	19
Argyle	114	Dumbarton	72
Ayr	185	Dumfries	84
Banff	49	Edinburgh	165
Berwick	149	Moray and Elgin	32
Bute	21	Fife	239
Caithness	35	Forfar	124
Clackmannan	16	Haddington	109

Inverness . . .	77	Perth	239
Kincardine . . .	82	Renfrew . . .	143
Kinross . . .	21	Ross	82
Kircudbright . .	161	Roxburgh . .	151
Lanark . . .	222	Selkirk . . .	53
Linlithgow . . .	68	Stirling . . .	130
Nairn . . .	17	Sutherland . . .	21
Orkney and Shetland .	43	Wigtown . .	70
Peebles . . .	48		

From Henry Cockburn.

Edinburgh, 20th November, 1830.

My dear Kennedy,

Since I wrote you yesterday, I have had a long and very useful dialogue with Abercromby, whose brains I wish were among you. He does not interfere in our parish business unless he be consulted, and I need not say to you how useful such a consultation would be before Scotland is settled. If anything be proposed to me, I am authorised to refer to him on the subject of any conditions or explanations I may have to ask or to give. He will say that no right Lord Advocate will *ever* be got who is taken so far out of his proper line as to destroy his practice, and that it ought to be understood that his personal attendance is not to be as Scotch Secretary, but ought to be assimilated to that of the Attorney for Ireland. This for yourself.

I have talked to Murray again of the necessity of his doing anything that is thought right. He still professes a desire to be let alone, and has written to

B., recommending the Dean and me—the Dean to be put first; but if it be proper that he should act himself, I have no doubt that he would overcome his desire and act.

I presume that the said B. will not have much to say however, which seems to me to be a grievous calamity; not so much for the aid he can give, as for the mischief he may do.

Why are you not put—that is, why don't you put yourself into some useful place? But perhaps you are more useful for Scotland, when aided by Government, without being restrained by it.

Ever,

H. Cockburn.

23rd November, 1830.

My dear Kennedy,

The change of Government has multiplied our reforming friends so rapidly, that I have found it very difficult to prevent them breaking out themselves, and taking the thing into their own hands. In order, therefore, to keep all right, we have yielded to the necessity of having a meeting here—and it may possibly, though not perhaps very probably, be held on Saturday first. We might hold a dozen of them—all full—but the great thing is to avoid Radicalism. Some recent conversions are very curious. Our member's statement* spreads wildfire.

* See Note, p. 254.

We know nothing here about anything Scotch. I heard some very ugly statements to-day, *which the Dean had just got from the Solicitor General.* He certainly is quite ready to adhere; and seems to think that his virtue should even be rewarded by a promotion which, by means of Deputies, &c., will enable him to cherish all the young snakes that may hereafter sting their warmers. If his services be purchased by such means, there is nothing of party worth cultivating in Scotland.

What a strange and merciful event Brougham's elevation is! The Evil the head of the Church!

By the way—he has recommended Gibson Craig to Lord Grey as Crown Agent, which Craig has declined. Conceive Craig and Hope being proposed to act together! And the folly was complete, since the Crown Agency is, and must be, in the gift of the Advocate, who is responsible for him.

I have no doubt of the Commissioners of Supply of Lanarkshire and Renfrew soon meeting.

Ever,

H. Cockburn.

24th November, 1830.

My dear Kennedy,

Murray had a letter from Brougham to-day, which announces that to-morrow there will be a formal notice of Jeffrey being Advocate, and Murray and I

joint-Solicitors. Thank God Jeffrey is Advocate, and thank God that Hope is not! for we have had a dreadful alarm on the score of the latter very adhesive gentleman; the idea of whose being kept has given such disgust that if a public meeting had been called to petition against it, it would have been numerously attended.

As to the joint-Solicitor Generalship, I think, 1st, That it is an inexpedient measure for the public, and one which tends to get ridicule for the party. It implies a division of one cherry merely to please two Whigs; the office itself implying individual honours, duties, and responsibility. What would we have said if it had been shared between Pat. Robertson and Duncan Macneill? 2nd, that coming, as it seems to do from Brougham, who is a thousand times more the friend of Murray than of me, it is Murray's office in truth and justice, and that it is paltry in me to come, through his kindness, between him and his fair right. Though I have not positively made up my mind, therefore, my present belief is that I must decline interfering; and I perhaps come to this conclusion with the less scruple, that the half of the profits, with the whole of the deductions, is really not much of an object.

I know what I owe to your personal kindness in the matter of these appointments, and I shall not forget it.

Our public meeting is to take place on Saturday s'ennight. Ever,

H. Cockburn.

From Viscount Althorp.

Albany, Tuesday Night. (Nov. 30.)

My dear Kennedy,

I expect to hear from Abercromby every day. I had written to him to ask his opinion two or three days since. I entirely agree with you that he ought to be consulted about Scotland.

Yours most truly,

Althorp.

From Henry Cockburn.

Edinburgh, 2nd December, 1830.

My dear Kennedy,

The meeting which is to be held here to-morrow is all arranged—has excited the greatest possible interest—and I hope will do well; which it certainly will, if not thrown into tumult by any wild radical. I have hitherto had nearly the whole charge of it—including the drawing of the petition and resolutions. But though not yet married, being betrothed, to the office of Solicitor General, and the judicious holding that the Crown counsel ought not to mix in such scenes, it is settled that Jeffrey and I don't attend,

which I very much regret—for I never was so anxious to keep any matter right. But it can't be helped. I hope Murray will give and preserve the right tone. The requisition contains a number of new, and excellent names; and altogether Toryism seems dead in this place, and our sole danger is from the antipodes.

Scotland is at last glowing with petitions, so that even the member for Edinburgh will be satisfied. There is a good deal of radicalism in the country, founded on long and absurdly defended abuses—excited by recent triumphs—and exaggerated by distress. But tho' the alarm that many people feel may be useful, I cannot say that I as yet discern anything that reasonable concession and a firm Government may not overcome.

The objection to our Scotch measure (Richardson's) founded on towns returning the County members gains strength and is very plausible. Our great obstacle, quoad the Shires, will be in that quarter. Would it do to abate it by two measures? viz. 1st—By raising the qualification *in counties* so high as to exclude the mass of Kilmarnock or Porto Bello—say £25. or £50. 2nd. To let in tenants in possession on 19 year tacks with rents so high as to exclude the Lairds cottars,—say at least £100. The combination of these two, by keeping back the towns and bringing forward the agricultural interest, would go far to

check the evil. The outcry of the radical must, on this as on other points, be resolutely disregarded.

I wish we had a regular communication opened with Government, for several changes of men are necessary here—which without a Lord Advocate, as we are, cannot be talked of. Tell me something of the Home Secretary and his secretaries, and pray indoctrinate the latter in Scotch. Bring one of them to Dalquharran and let us walk him about with you and Drummellan, and me.

Jeffrey and Murray have taken a fit of facile cruelty —which they call liberality, the result of which will probably be that in a few weeks Hope will be Dean! For this they say that they have the concurrence of the wisest here, which I doubt; but tho' I will not, even on this, desert my friends, it seems to me to be an odd sort of wisdom which recommends so unnecessary and prospectively hurtful a piece of folly. Either of these two could secure it for themselves; but both carry the love of their friend to so romantic a height that they won't have it in order that he may get it.

Did you observe the resolutions in yesterday's *Scotsman* of the Weavers of Kirklands, in answer to "the lie of that inveterate corruptionist the Member for Edinburgh?"

3rd *December*.—Hope and I commenced to-day about reform. He holds the meeting of to-morrow in horror, being *certain* that the only obstacle to

reform in Scotland arises from "the excitement" it creates. I referred him in my mind to William Dundas. He further holds that Government will never yield the reform which we, as he understands, point at. Further he did not explain himself. But would it be possible, or useful, to learn from Government how far they will go? because it would be everything to start fair; and to do something which might allay both alarm from above, and extravagance from below.

I find that others object to the burgh part of the scheme, that in some districts of them there are scarcely any £10 people; and I saw a list which in several showed that there were more electors under the present system, *i.e.* members of council, than ten pounders. I don't see a remedy for this (for I don't think that we can ever get below £10) except by throwing these miserable burghs into the counties, and transferring their member to some large town. It would almost be enough to perform this operation with 5, or perhaps only 4—perhaps only 3 districts: viz. 1. the Tain district; 2. The Anstruther; 3. The Wigton. These are clear. If necessary add, 4. The Haddington; 5. (Pudor!) The Ayr. (Et tu quoque.) Give their members to 1. Paisley; 2. Greenock; 3. Kilmarnock; 4. Leith (*i.e.* Edinburgh two); 5. Glasgow.

David Cleghorn will be Crown Agent. The four deputes in Justiciary, John Cuninghame, Ivory,

Mungo Brown, and either Jack Stewart or Graham Spiers. The two for Exchequer will be whichever of the two last be rejected from the Justiciary, and Cullen—who is kept from pure compassion. There are other nests for agents and counsel—receptacles of vermin,—that ought to be cleared out—and I hope will be so—but we must first get inducted, which we are not yet. Ever,

H. Cockburn.

From Sir James R. G. Graham, M.P.

Grosvenor Place, 2nd December, 1830.

My dear Kennedy,

I will not forget Lieutenant Dunlop, whenever an opportunity for employment occurs, consistently with the claims of other officers, whose cases I have promised to consider.

The Speaker will be compelled to work on, and no sham excuses will be taken. The Court of Exchequer in Scotland must, I should think, be endured for the present. Ever yours,

J. R. G. Graham.

(Private.)

Grosvenor Place, Sunday Morning.

My dear Kennedy,

I am particularly anxious to see you for half an hour in the course of to-day to discuss with you

Scotch Reform in detail, with reference to a measure which we have now in hand. Could you come and dine with me tête-à-tête to-day at seven o'clock; or if engaged to dinner, would you come to me here at ten this evening? Yours most sincerely,

J. R. G. Graham.

From Henry Cockburn.

4th December, 1830.

My dear Kennedy,

Our meeting has gone off admirably. As many present as the Assembly room could hold, probably 1600. Craig in the chair, where his popularity and force made him very effective. The full speech was Murray's, which by all accounts was excellent. The other speakers were Maclaggan, John Cuninghame, Black, bookseller—Thomson, merchant, and Scott, ditto—and George Combe, W.S., the phrenologist, one of the best speakers and most sensible men I know. Except an indication for Ballot, which Craig instantly put down, as not within the requisition, there was no approach to radicalism. A shilling at the door always excludes that virtue. On the whole it has been a powerful and useful meeting. Everybody seems to have concurred in throwing mud at the M.P. for Edinburgh.

The *Town Councils* of Glasgow and Dumfries have

petitioned ; and so will they all. In short Lauderdale is clear that the revolution has begun.

How lucky that neither your notice nor the review were delayed !

Again I warn you, don't lose your next year's object, Burgh Reform. Ever,

H. Cockburn.

5th December, 1830.*

My dear Kennedy,

I shall mention ——— to Jeffrey—with whom I am certain that nobody's wishes can go further than yours. But there are two reasons why I expect nothing from it. One is that everything that the new Lord Advocate has to give, is already given away,—in particular all the Depute Advocateships, both in Justiciary and in Exchequer ; the other, that ——— is so completely out of the profession, that it is not safe to put him into any ostensible situation where work is to be done. It would excite remark, and he cannot give value for it. A Government professing purity must be on its guard. But I shall mention him. He is an excellent person, and I fear very poor.

The meeting of yesterday has made a great impression here. Ever,

H. Cockburn.

I have no doubt of Jeffrey's doing well as Lord

Advocate, and I anticipate much good to Scotland from him and you, acting under a fair government and a strong public opinion. He requires in the conduct of business to be managed, but he is easily managed. He will probably not originate much, and he is very helpless in details. But expound to him what is wanted, and give him help in the manipulation, and you will find him an effective and able associate, and in the more difficult things a sagacious guide.

12th December, 1830.

My dear Kennedy,

My going to London before March is literally impossible ; and my going in March very problematical. Recollect that at that time Jeffrey will be away, in all probability, and that there will be the whole three circuits, with three Deputes not at all experienced. I suspect that my absence also then would be inconvenient, and thought wrong. But there is nothing that I won't do, for our reform, if possible. So let it stand over for a time, and we shall renew the subject hereafter. If I can go with propriety, I certainly shall do so.

I begin to suspect that the best way of removing the objection of the towns drowning the counties, will be by making a new allotment of districts of burghs,

and throwing most of the towns or large villages into these districts ; *e.g.* let Kilmarnock vote with the Ayr burghs.

Our petition has in eight days got about 12,000 signatures. It will probably have 20,000 this week.*

Ever,

H. Cockburn.

Edinburgh, Friday, 17th December,

My dear Kennedy,

I have got no letter from Lord Durham, or from anybody except yourself. But from what you say, I presume that one from that quarter is on its way.

This requisition, though most exceedingly inconvenient, leaves me no choice. But I repeat that my being out of Edinburgh at the time you mention—viz. the 5th of January is impossible. The Court of Justiciary has fixed the first week of January for clearing off its arrear of prisoners, and I could not be absent without a marked and hurtful violation of duty —which I am sure would be taken advantage of to the prejudice of Government.

There being no time for more correspondence therefore, I have come to the resolution of leaving this for London by the mail of Sunday first, and of course

* It had eventually about 24,000 names.

of being at Richardson's on the morning of Tuesday first.

Let that day, from and after 12, be devoted to our arranging our reform scheme ourselves ; and dispose of me as you like, in reference to the others I must see, between that day and the next Monday. For on the evening of Monday the 27th, or morning of Tuesday the 28th, I'm off. Nothing but force—physical force—will keep me one other moment. So make all arrangements, &c., and don't let the week, which is all you say you require, be lost. You say that you are going out of town, but will return for me, and therefore I assume that you will like as well to be prevented going as to be brought back. If you be away I return here next night.

Hope was cordially made Dean to-day.

Ever,

H. Cockburn.

Though I name the 27th as my last day, I should much rather that it were the night of Friday the 24th, because there is a jury trial on the 27th, from which it is a serious injury to the client (Stewart of Belladrum, now or lately an M.P.) that I should be absent. So if you can arrange it so, do it.

From Alexander Baring, M.P.

The Grange, Alresford, 28th December, 1830.

My dear Sir,

I fear you will have condemned me as a most unworthy correspondent, for having so long neglected answering your note. It reached me rather irregularly owing to my having moved my residence from Brighton here, and since I have been here I have been so much busied with the trials of the rioters at Winchester, that my other duties have materially suffered.

I write to-day to Spring Rice to ascertain whether the papers we ordered are ready, or when they are likely to be so; and I will also write to Mr. Chalmers, our clerk, to make and hand a copy to you the moment the returns reach him, as also to any other member of the Committee who may apply to him. The Speaker makes, ordinarily, difficulties about printing papers before they are reported to the House, but Mr. Chalmers shall make the application, and if he consents, a print shall be sent to each member. I quite agree with you that it is important to look over this paper carefully, so that we may be prepared to deal with it when we meet; and if you would come and spend a few days here any time after the 6th, to talk it over, you would do a very amiable act. Reflecting upon the reference to our Committee makes me think it an awkward mode of determining some delicate and important questions. The Lord Chancellor holding

part of his emoluments from the Consolidated Fund, and his office at the pleasure of the Crown, will necessarily be before us. The Lord Lieutenant of Ireland will, of course, be so, and many Foreign ministers being Peers of Parliament brings, necessarily for the sake of consistency, the whole scale of diplomatic appointments into discussion. You will see that the reference acts capriciously in bringing before us classes of service, according as any individual in it may happen to be member of either House of Parliament. But we must, like good children, perform the task as it is set to us.

I am glad to see, my dear Sir, that you are occupied with this subject, a circumstance which makes me confident that we shall perform our duty creditably.

Yours,

A. Baring.

From the Earl of Minto.

Paris, Rue-de-Courcelles, No. 10, 4th January, 1831.

My dear Kennedy,

I begin to feel a little anxious to learn what progress you are making with your great measure, and if it promises to resist all the clippings of Loch, Lauderdale, &c. I heartily wish it had so been that our Scotch Reform could have been taken before the English measure; for if Government is driven to a dissolution, it would have made a great difference in

the names from our country. I am promised an account of the probable number of voters our *county* would muster under a £10 qualification for land, and I think £20 for houses, &c. If you have any curiosity to see this on its passage, desire my brother to communicate it to you, for I have directed it to be forwarded to me through him.

We are all quiet here, and there is nothing to give the Government any uneasiness in the temper of the country, which is as good as possible so far as their domestic concerns go, but the aspect of foreign politics is rather more alarming. The Dupont, Lafayette, &c., &c., party are driving at war and intriguing for it abroad.

Pray let me hear what you are all doing at home.

Ever yours, most sincerely,

MINTO.

From Alexander Baring, M.P.

The Grange, Alresford, 7th January, 1831.

MY DEAR SIR,

I quite concur in your view of the case, that salaries and emoluments are not to be judged of without taking into consideration whether the State is to provide superannuation, or whether each officer is to be his own Providence. I am further clearly of opinion that after all the abuse heaped upon the House of Commons, its Committee must not negligently or carelessly perform the duty imposed upon it.

The answer I have received from Spring Rice, which reached me only yesterday, makes me fearful that the gentlemen at the Treasury are not well aware of the nature of the paper we have called for, nor of the precise duties of the Committee. He is of opinion that we are not to deal with

Diplomatic Services,

Military Service—Colonels of Regiments, &c., but he agrees that

The Chancellor,

The Lord Lieutenant of Ireland,

are within our mission; and he adds,

Masters in Chancery,

Master of the Rolls.

Now in this it seems to me that he considers more what Government want us to look into than what the House orders us to do. It is clear that several Diplomatic and several Military Officers are *members of either House of Parliament holding offices at pleasure*, and that neither Master of the Rolls nor Masters in Chancery answer this description. As you are in town I wish you would take the trouble to see Lord Althorp or Spring Rice, and talk over a subject which they have probably not had time to consider. If somebody does not do so, we shall have an awkward paper when we meet, which will not enable us to go satisfactorily to work. The paper once furnished, I will take the step you recommend, to have it printed, for

each member should have it before him as we go to work. I shall not be in town much before the House meets, but if anything occurs to you to facilitate our progress when we do meet, I trust you will not neglect it. Ever, my dear Sir, yours sincerely,

A. Baring.

From Lord King.

Dear Kennedy,

Better late than never: we shall be very happy to see you at the time you mention, and if you can come a day or two sooner than the 19th, so much the better. If you will let me know I will endeavour to get the Ords to meet you and Mrs. K., and perhaps I may find your friend Mr. Oswald at liberty. I shall bait my hooks with you and some Ayrshire cows, as I know he is a great farmer.

I hope you have good accounts of Scotch Reformers. The enemy endeavour to represent the Scotch County interest as very lukewarm on that subject—they cannot deny the demand for reform in the great towns, but the counties they say are well satisfied and wish for no change,—so preaches my Lord Haddington.

I am glad to find that the revenue is as good as it is. Had the Duke been Minister my factious spirit would have made me wish for a falling off, but as our Althorp is a youth well-disposed to make experiments on taking off taxes in the expectation of an

increased consumption, I am exceedingly well pleased that he should have an encouraging prospect before him. I rather think he is well disposed to try the plan on a large scale, and reduce teas, and sugars, and all articles that admit of greater consumption.

Ever yours, most truly,

KING.

DEAR KENNEDY,

I returned your Elgin paper, which I hope you duly received. If all Scotland are as much alive to reform as the good people of Elgin you will be well backed, and the Bute well mortified. The chief end of my note is to ask you to bring Charles Romilly with you. My son remembers him at Clements', and will be glad to renew his acquaintance, and we very happy to see him. I think you are likely to see him, and will do it better than Whishaw, who is so full of engagements, there is no dependence on him.

Ever yours, most truly,

KING.

I hope the casket found at Warsaw amongst Constantine's effects will be published under the same title as some of Charles I, or the Queen's were in our Civil War, called, I think, the Rich Cabinet.*

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* Some letters of Charles I. taken at the battle of Naseby were published under the title of the *King's Cabinet opened.*

From Henry Cockburn.

Edinburgh, 11th January, 1831.

My dear Kennedy,

How stands reform now? I have pondered much on what we agreed upon in London, and there is no material point on which I have changed my views except one. The Court of Three Sheriffs won't work; and though it did, it would not work better, according to our Scotch feelings, than one Sheriff. I have therefore come to think that the system ought to be,—

1. That the Sheriff should not be obliged to perambulate his shire, but that every person claiming should send a friend, or appear, if required, personally, with his claim at the Sheriff's office, at anytime convenient for himself; except that no new claims should be receivable after a vacancy has occurred in the representation of the place. This last is to prevent a run, and to check previous laziness.

2. That the Sheriff should be the sole judge in the first instance of the validity of each claim; he being empowered to direct a report on disputed valuations, to be made by a surveyor. Whether the Sheriff or somebody else—*e.g.* the Commissioners of Supply, ought to name the surveyor (during pleasure) I am not yet sure.

3. That the Sheriff's judgment should be held as the rule so long as it stands; it being competent to

the party rejected to submit his cause to him as often as he pleases, and to have his right, *if the claim be rejected on any ground of law*, declared in the Court of Session, if he chooses.

This last may be anomalous, because there will often be no party against him; but it can't be helped. One way or other it is the Sheriff who must determine in the first instance; and he every day does far more important and conclusive business. With this, the register as simple and easy, it is not different from what is already kept in all police towns. The Edinburgh surveyor has on his own books the name of every occupier, and the value of every flat, and he knows (as any such person soon must) every tenement almost from memory.

Is William Dundas satisfied yet? Our Faculty this day named Committees on Rae's seizin, and on your Entail Bills. I am on the last, but take no charge of the first. I augur no good to Entails from our interference and never did.

Jeffrey I suspect will get his return on Thursday. But the effect of a petition is always doubtful. I suppose he must go South soon. In your Scotch conferences with him, don't be in despair when you find him always wasting time at first, pouring out what may be said against you, and not listening. He will always come right at last after his spare steam is let off. I shall instruct him to make you one of his

chief councillors, and if you manage him successfully you two may do much good. I have some dread of the Evil, who I suspect has a dangerous ambition to distinguish himself by merely making large changes in this ancient kingdom. I protest against every device to make the law of Scotland approach that of England, not by judicial decision, but by violently subjecting us to southern men and rules.

What we heard at the Admiralty about subinfeudation was from the quarter I mentioned at the time. Subinfeudation at the Admiralty!—It was not meant to be connected with reform; but was a mere legal speculation. Remember me to Mrs. Kennedy.

Ever,

H. Cockburn.

From Sir James Graham.

(Private.) Admiralty, 12th June, 1831.

My dear Kennedy,

I return Sir Andrew Agnew's letter: wonders indeed never cease, and the march of reform is rapid and triumphant. A few more such converts and our measure will be carried. Ever yours,

J. R. G. Graham.

From Henry Cockburn.

19th January, 1831.

My dear Kennedy,

If the Advocate and I are to be asked to draw

the bill, it is plain enough that I must do it, and therefore the sooner I begin the better. To enable me to do so, I wish you could direct your little scribe to copy over for me the paper of Heads which I jotted in London, and of which I believe you kept a copy.

Everything connected with the Register depends on the Sheriff's interim finality; yet I fear English prejudice as to such a power. The Sheriff can easily be made to perambulate if necessary; but the objection is that it must lead him into wilds where cattle are the only ten-pounders. Would it be right to send him into the recesses of Inverness or Argyle? If the lieges be allowed to go to him *at all times*, they may surely make it convenient.

The Faculty Entail Committee meets to-morrow for the first time. I shall try to keep them right;—but that is rarely achieved.

I have taken no concern whatever in Jeffrey's election, and so, not having been at Dundee, don't know, except thro' the newspapers, what he said: but William Murray and other judicious persons who were there, are full of considerate admiration of every word he spoke. The Ogilvies, enraged by disappointment, are propagating silly tho' disagreeable stories; of which believe nothing. Their charges are

1. Taking a vote from Dundee,—clearly (valeat quantum) his legal right.

2. His incarcerating an adverse debtor: — not

done by—or through—or for him; but purely by a true creditor who (justly) thought the seizure of his debtor at that moment was more likely to produce payment.

3. His "intimidation;"—a word, or thing—I don't know the meaning of, as applied to this election.

4. His threats, &c.—to Shaw—a Cupar recreant;—not used by him, but *most justly* by Ivory whom Shaw betrayed.

5. His sending for the military at the Forfar election;—not sent for till the election was over—nor by him—nor till the Lord Lieutenant and the Provost declared that they could not be answerable otherwise for the peace which had been shamefully, and *by encouragement*, broken.

If it were worth his while, he could give all these a triumphant refutation. Ever,

H. Cockburn.

From Lord Althorp.

Downing Street, January 21st, 1831.

My dear Sir,

It is the intention of Government to submit to the consideration of Parliament at the earliest possible time, the measures which they intend to propose. I therefore take the liberty of writing to you to say that I shall be very much obliged to

you to be in your place on the 3rd of February. I am very anxious to have as full an attendance as possible, as I am in hopes that the measures which we shall propose will be satisfactory to those who now put their confidence in our intentions, and this being the case, the more members are present the greater will be my hope of support.

Believe me, my dear Sir,

Yours most sincerely,

ALTHORP.

From Henry Cockburn.

28th January, 1831.

MY DEAR K.,

Those who attended the Faculty Committee on the Entails bills, being seven or eight, were unanimous in favour of the general principle of them all; but they doubted about some of the modes of carrying the principle into effect; and the result was that they directed their convener Sandford, who is to be in London next week, to confer with you and to report. They doubt about the power of docking with the consent of *one* substitute, and about selling for payment of improvements executed *at any time* since the 10th of Geo. Third.

Speak to Sandford and yield anything not essential.

I have heard nothing about the reform bill and am not anxious to do so, although if it is to come to me, the sooner it comes the better.

Well done Kircudbright. Jeffrey left this to-day, not very well, Don't kill him. Ever,

H. Cockburn.

From Lord Althorp.

Downing Street, Tuesday Night.

My dear Kennedy,

I am very much obliged to you for letting me see the two enclosed letters. I was not aware that we Balloters had got Abercromby as a recruit.

Yours most truly,

Althorp.

From Henry Cockburn.

13th February, 1831.

My dear Kennedy,

I don't mean to substitute the Advocate for you, so I beg you would write as heretofore. If I were a king, selecting my four secretaries according to penmanship, you, Jeffrey, Abercromby, and Chalmers,* should be them, with Fleming to keep you right.

Do go over, and through, and into the bill word by

* All remarkable for their illegible handwritings.

word, and letter by letter, and let it come forth duly revised; of which revision it has as much need as any production of the kind ever had.

Fight, and till you perish, for the following points.

1. More members;—the sinking of Caithness in the belly of Stafford, and the junction of Selkirk with Peebles.

2. The Tenants.

3. The Sheriffs not going to voters, but making the voters come to them.

4. The ousting of all votes except on Dominium utile. Endless jobbing else.

5. The system of shillings and of appeals, both of which however, let them be worded and fenced as they may, will, after a little experience need to be improved by a supplementary bill.

Why did not you make our friends go further in the Civil list ?

How are entails coming on between you and Sandford ?

Nothing new here, Thomson's death (not the immortal Thomas but Andrew) has made a strong sensation. Has Mrs. Kennedy got me a kirk yet ? And ancient Caldwell, he distributes no more.

I trust that the reform agent is Richardson.

Ever,

H. Cockburn.

An excellent club to-day.

22nd February, 1831.

My dear Kennedy,

Rutherfurd, who leaves this for London on Thursday, implores you to try to secure him admission under the gallery of the House on the 1st of March.

I am sorry and surprised at what you say about the Reform bill. I proceeded on the assumption that both you and Richardson were to assist Jeffrey on every point, and I now find that he is deprived of you both. What I sent him was *necessarily*, from the idea it was done upon, so imperfect that if I had known the truth in time, I should have repaired to London, for nothing can be more cruel or dangerous than to leave such principles and such details to any one man. But it can't be helped now. Would the vessel were through the waves!—

The policy of delaying Tailzies till next year depends entirely on your belief of your being able to get them through with most certainty, now or then. If you can succeed now, succeed. But if this be doubtful, I agree with you that a reformed Parliament gives you a better chance.

The failing which you mention in his Lordship* has been his great failing always. He is too pure himself to suspect others. But he is very docile, and grateful to every teacher; so you should, conve-

* Mr. Jeffrey, then Lord Advocate.

niently, give him a word. You are bound to do so. Be quite plain. Just tell him to distrust words and villains.

I have long resolved not to touch the seizin bill. I don't understand the subject; and it is in better hands.

Don't forget Burgh Reform; and keep it for yourself. If the coast be clear, and Parliament reformed, Government will assist, or take it up. But in the first instance, for your own glory, show the way. You may resign the torch; but first light it. It is the next great Scotch subject. Name your day, and secure Drummellan, and let us arrange it during a long Dalquharran walk. Ever,

H. Cockburn.

From W. Murray of Henderland.

George Street, 26th February, 1831.

My dear Kennedy,

I dined yesterday with the Dean of Faculty, who stated that a proposition, for the representation of the Scotch Universities in Parliament, had been submitted by Lord Haddington to Lord Grey, and had been favourably received.

I had heard of the plan before, but it seemed to me so absurd and impracticable, that I hardly thought it could be seriously entertained, except by some of the Professors, or persons more immediately attached to

the Universities. In England, at least at Oxford, (I believe the system at Cambridge is the same), all Doctors and Masters of Arts, *who keep their names on the books*, by paying a sum amounting to about £3 per annum, and are thus *actually* members of the University, have the right of voting,—all those, who take their names off the books, though otherwise qualified, lose that right. In Scotland there is nothing analogous. The students take their degrees and then cease to have any further connection with the University, which in fact consists of the undergraduates and Professors. There are no bodies in this country, similar to the English Universities, but yet it is proposed, as I understand, to give them the same power of sending members to Parliament. The plan which I heard mentioned here was to exclude *all Doctors* from voting, who, according to our notions at least, as being the highest degree, have the best title to it, and to give it only to the Masters of Arts. Thus the great body of the lay graduates, who are chiefly those of Medicine (for there are few D.D.'s) would have no vote, and the power of election would then be vested in the ministers, (I don't mean *his Majesty's*, though they too might have something to do with it) of whom the M.A.'s are almost entirely composed. It is urged as an argument for the measure that these learned bodies should be represented—be it so—but surely learned Doctors have as much right to it as learned

M.A.'s, and I cannot see any reason for giving the franchise to the one and withholding it from the other.

It may be however that I am misinformed as to the system of voting, and that both Doctors and A.M.'s are to have the right—still it appears to me that the result would practically be much the same. The Doctors as I have already said, are composed chiefly of those of Medicine, who come from all quarters of the globe, and after taking their degrees are again scattered all over its face, and never see Scotland afterwards. Some indeed remain—but they form a very small body as compared with the resident clergy, endowed and unendowed, who, be it recollected, are the A.M.'s. The consequence of this, would be that the *Church* and not the Universities, or *learning* produced by them, would send the representative to Parliament; and not to mention the jobbing and intrigue that such a measure would infallibly produce, should the clergy have such a right ? Give them votes in right of their manses, glebes, and stipends, along with the other freeholders, but I would not place in their hands, though not nominally, yet virtually the power of sending a representative of their body to the House of Commons. I have here supposed the franchise will be in the *graduates*, for he must be a strange reformer who would entrust it to the Professors alone, or to them and the undergraduates—though from the election of Rectors at Glasgow, I don't know, whether,

if the Universities are to be represented, the latter would not form the best constituency of the two.

It should also be remembered that the English Universities are possessed of very great property in Colleges, lands, tithes, canonries, rectories, and other Ecclesiastical preferments, that they supply all the Bishops and other members of the Church, and there are numerous other valuable rights, such as heads of houses, fellowships, scholarships, &c. &c. attached to their members, all of which frequently require some person to look after their interest in Parliament. But with the exception of the Professorships and a few Bursaries, the Scotch Universities have nothing to represent that I am aware of, but their *learning*, of which Johnson said, that several in Scotland had a mouthful but none a bellyful.

I have thrown together these hasty and unconnected observations, at the desire of Sir J. Dalrymple, who was one of the dinner party yesterday, and who wishes you would knock this foolish plan on the head, should it be attempted, and give the additional member it would seem to imply not to the Universities, but either to some town or county. For my own part I cannot believe that Lord Grey will countenance it, certainly not if he knows the circumstances of the case and that all he did or meant was to receive Lord Haddington, as one of the University Commissioners, with civility.

I have been kept here much longer than I intended and much against my will by Peebleshire election, which takes place on Friday the 4th. I shall set off on the Monday after. Sir George Montgomery will carry it, he is quite right in politics, supports ministers, reform, retrenchment and economy.

John and Mrs. M. join me in best regards to you and Mrs. K. Ever yours,

WM. MURRAY.

From Edward Ellice.

Richmond Terrace, Friday Evening.

MY DEAR KENNEDY,

If you happen to be in the neighbourhood of the Treasury to-day, on your way to the House, I wish you would look in upon me at half-past two, and give me any information you can about your northern colleagues in the House of Commons.

Duncannon is to be there and we shall go over the whole list. Ever yours,

EDWARD ELLICE.

From Henry Cockburn.

13th March, 1831.

MY DEAR KENNEDY,

The public meeting held here on the 9th having resolved not to petition, on the idea that there was no time, and the enemy having crowed at this, a

petition was resolved on, upon Friday the 11th, privately, but it was not announced except by placards, &c. *yesterday morning;* and by last night (one single day) there were above *eleven thousand* names. I expect 30,000, in a few days. I never saw Scotland electrified before.

Jeffrey alarms me by fears about the union of Peebles with Selkirk,—about the quashing of the Fife burghs —and about the folly of corrupting our colleges, and providing for bad members, by giving a representation to the Universities. These are bad in themselves, but worse in this, that they imply, I fear, that for every member that these places get, one will be taken from one of our populous towns. In particular they seem all to point at throwing Leith into Edinburgh, a most unjust and fatal step. In order to check this I have arranged with Abercromby that he is this day to write to Lord John Russell and to Lord Duncannon, urging them to adhere to the made Scotch arrangement, and not to give it up piecemeal; and stating that there are only two members from Scotland worth minding on the subject, viz., the one for Dundee and the one for Ayr. If members be not given to Aberdeen, Dundee, Leith, Edinburgh, Glasgow, Paisley, and Greenock, everything will be thrown loose, and if more are required for counties or colleges they must come off the 62 who are proposed to be cut off.

I fear that the machinery of the bill has not been

improved since it went into the Cabinet. But let this pass. The admission of £10 votes and of tenants redeems everything.

Do let me hear from you. Never mind the Advocate. It is to you I look, for instruction as heretofore, and I never mean to cease conferring with you, alone or first, on all that remains to be done for Scotland. So don't fall out of correspondence.

The enclosed is from Mr. Macdowall, my brother-in-law. It is for the grass-seed man, whose address he does not know. Excuse my asking you to address it, and put it into a postman's bag.

If Jeffrey should be unseated, the defence of our details, if they be attacked, must be on you.

Ever,

H. Cockburn.

20th March, 1831.

My dear Kennedy,

The possible fate of Jeffrey's Committee disturbs me, both on account of him, and of the Scotch bill. Failing him, I presume that you, of the Scotch members, must fight the battle in the Committee; in which event I have no fear at all. But if Government, in the abstract, be left to conflict with the local lies, which will be called knowledge, and the local intolerance which will be held to be caution, I am afraid we shall come off second best; especially if, after getting

their own business settled, we come in at the fag end of a fagged house.

I presume that Jeffrey has told you all my doubts or rather corrections. They are very few.

1. Put Hamilton in place of Ruglen, and declare Ruglen to be a part of Glasgow.

2. Put Port-Glasgow into the Stranraer district.

3. Declare Maxwellton to be a part of Dumfries.

4. Whatever is done with Peebles and Selkirkshire, Caithness and Sutherland, or any other single or double counties, abate not one jot of any member announced to be given to our towns. This ought to be a sacred point. I hear that Leith and Greenock are not quite safe. If any such place be given up, depend upon it that the unanimity that prevails on all points in Scotland is blown up, and the public is dissipated into a thousand speculative factions. Put in what more you can, but yield nothing of what has been given.

5. Make a qualification for *Burgh* representatives as for those of Counties. This is *essential.*

We are still going on here trying to convince the member for Edinburgh and Lord Stormont that we are not indifferent. It is literally impossible to exaggerate the accounts of the people's delight. The Radicals—Corporations—Town Councils—and wise men—have all behaved beautifully. Lairds alone—always impervious—are behaving ill. Ever,

H. Cockburn.

3rd April, 1831.

My dear Kennedy,

A petition against reform has gone from what is called the County of Moray. The meeting was attended by exactly eight persons; five of them being freeholders and one a provost. And there was a counter-petition voted at a previous meeting really of the lieges. Sir William Cumming and his brother are the great anti-ministerial agitators.

There are several minor things—chiefly of phraseology—to be amended in our bill. Of greater importance the chief things seem to me to be—

1. That the Universities—keeping separate Selkirk and Peebles—and everything which implies the withdrawing of one of our 50 members from populous places must be steadily resisted.

2. That the part of Perthshire which we put into Kinross, and which was put out in London—be put in again.

3. That Port Glasgow be joined to the Wigton burghs, or in some other way kept off Renfrewshire. Greenock would be its natural mate, but that their interests are adverse.

4. I should like to see Hamilton united to the Dumbarton district; and Ruglen made a part of Glasgow.

5. Maxwellton should be declared a part of Dumfries.

The Chief Baron has gone to London. Speak to him about the propriety or possibility of making the leases *shorter* in the case of *stock* farms. I have written to Oliver to tell me what the length of a grazing lease generally is.—But I fear that the double rule would be dangerous, for there are many different lengths for different places and subjects.

It has also been suggested that, since tenants have been let in, more burghs might be thrown into counties and the member given to single towns, as Perth, Dumfries, Port-Glasgow, &c. My doubt is that every operation of the kind exposes us to the double hostility, both of the landed interest in the counties and of the disfranchised burghs. And the examples of the Fife district, of Peebles and Selkirk, &c., show how troublesome such hostility is.

Remember that Dornoch has been omitted from the statutory list of burghs, by some mistake.

Everybody here is justly raging at the Provost for virtually encouraging breakage. All Scotland, even its villages, have been illuminated, and the only wonder is that Edinburgh and Dundee are the only places where there has been any disturbance, and there very slight. I have not heard how many panes Sir G. Clerk's near relative broke.

I saw Rutherfurd to-day. He will be among you again very soon. Murray is in Cheshire, Thomson has been unwell. The Perth gentry have made by far the best

appearance as reformers of any Scotch county. The minority was larger, and the names higher. *Even* Keay was there; an act of virtue the more extraordinary from its being solitary. It was all done by the Marshall and Glenorchy; zealous and judicious men both.

I don't hold, and never meant, that our clergy should vote—in virtue I mean of their livings. They are neither tenants nor landlords of their manses or glebes.

What an ettercap that blacksmith-looking —— is.

Do worry Sir George in our Scotch Committee—and Hum Drum—and all Hopes and Dundases.

It is presumptuous in us here to think of the subject; but still I cannot avoid misgivings about going on with this Parliament, and if there is probably to be a dissolution, the sooner surely it came the better. But the fly in the fable, &c. Our sublime representative of Edinburgh seems to be down even with the Town Council. It will either be Jeffrey or the Provost.

Ever,

H. Cockburn.

Since writing the above I have learnt of horrid plots by the Scotch Tories to raise the County qualification on houses, and of ominous meetings between certain Peers and the Advocate and Lord Grey. If this point be foolishly (and not perfidiously) yielded

the more Port Glasgows we bring upon the shires the better. H. C.

Let loose the Chief Baron on this point. £15 or £20 would absolutely exclude the whole people. Hence their love of it.

From Lord Minto.

Paris, 3rd April, 1831.

My dear Kennedy,

I write rather to provoke an answer than from having anything to say to you myself, for I am growing impatient and uneasy in the ignorance of what you are all about. Let me hear what you think of the prospect for the next stage of the Bill, which we are told here, and I hope truly, has brightened since I left London.

There are several little verbal corrections necessary I think in our Scotch Bill, but I suppose you need not consider them, till after the second reading. There is one trifle indeed that I do not much like the appearance of in principle or practice. I mean the shilling that Jeffrey extorted from Brougham for his pets the Sheriffs. I see no objection to that small fee on registration, to which I thought he had intended to confine it, and which would amply cover any little trouble or expense there may be. But the fee on tendering the vote has an ugly appearance, and puts

£50 or £100 gratuitously into the sheriff's pocket at each election. What do you say to this ?

I depend upon your letting me know if anything occurs to make you wish for my presence or assistance in helping you on with our Scotch matters: and I will come when you call. I should naturally wait here to accompany my boys, who will leave Paris about the 21st, on their return to school, but I suppose you will think that too long a holiday for me.

Casimir Perrier's government here is doing well and stoutly, and his vigour has been well received. If the King supports him France will prosper, unless there should be war, which I hope is less likely than it appeared a few days ago. The advance of the Austrians in Italy is however a provocation hard of digestion, unless they are induced to return again within their own territories.

Ever yours sincerely,

MINTO.

We cannot carry Roxburghshire *unreformed.* Send your letters for me to the Admiralty.

From Henry Cockburn.

4th April, 1831.

MY DEAR KENNEDY,

I wrote to Oliver asking him what the fact was about the duration of stock farm leases, and I en-

close you his answer. Show it to the Chief Baron, whose address I don't know.

I trust you have begun to counterplot against the attempt to raise the county qualification. I have no doubt whatever that the Scotch members of both Houses, if they believed that the Bill was sure of succeeding, would have no scruple in going to the Minister and tendering their votes for the whole scheme,—providing he would only spoil the Scotch part of it, an experiment I should tremble to see tried.

Ever, H. Cockburn.

Enclosure from Mr. Oliver.

Lochend, 2nd April, 1831.

Dear Sir,

I am favoured with your letter of yesterday respecting the length of leases generally granted for stock-farms in Scotland. Upon farms entirely or nearly devoted to pasturage, leases of 10, 12, or even 15 years are not uncommon; but where tillage to a considerable extent is combined with pasturage a 19 years lease is generally granted. It would certainly be desirable that all tenants should have a vote who pay £50 of rent: but at the same time any provision in the Reform bill which would have a tendency to shorten the duration of leases could scarcely be too strongly deprecated.

If the clause which makes two years possession on

a lease of 19 years necessary to qualify were done away, landlords could easily confer the right of voting upon those of their tenantry who possess on leases of shorter duration, by cancelling the old and granting new ones for 19 years. In this way the tendency of the bill would be to promote that length of lease most beneficial to the landlord, tenant, and the community at large. I am with the greatest respect and regard, Dear Sir,

Yours most faithfully,

THOS. OLIVER.

To Henry Cockburn, Esquire,
Solicitor General of Scotland.

5th April, 1831.

MY DEAR KENNEDY,

I have received a host of criticisms on our bill,—all in writing, and many from persons entitled to criticise. I have extracted all that I think worth out of them, and put appropriate changes, with a few observations, on the margin of a copy of the bill. The Lord Advocate writes to me to send my corrections to you in his absence, and accordingly I have made up (and paid) a packet addressed to you; which take care of and give to the Advocate when he returns, having first looked at the proposed changes. None of them almost are upon principle, as to which *we* are all unanimous, but only on details.

I wish you to observe particularly—

1. That as the bill stands it has no statutory commencement.

2. That Dornoch is left out of its district in § 4 by mistake.

3. That the Kirkcudbright people are terrified out of their wits lest they be saddled with Maxwellton; which, as Gorbals, should be *declared* a part of Dumfries.

4. That the word "*dwelling*" in § 6, if meant to denote a *flat*, or part of a house, must always be repeated, else wherever it is left out, it will be held that nothing but a whole house will do.

5. That if the addition to § 11 be omitted, and a person shall not be registered until he has been six months in possession of the *same* house, it will cut off *thousands* of voters; because there are thousands over the great towns who, though living in one town constantly, shift every half year.

6. That as no farmer can take possession even for one year without bringing stock, horses, servants, &c. to the farm, would not one year's possession (§ 8) do?

7. That there is at present no qualification for the burgh member (§ 26).

8. That to avoid accidents the Sheriff-*Substitutes* must be allowed to act on § 20.

9. That the words I have erased from Schedule B.

must be left out, else it may be held that a man may vote twice if he does so on two separate properties.

Ever,

H. Cockburn.

10. The Judges are offended at not being allowed to vote, (§ 25) especially as they say that the English can. But 1. *Do* the English Judges ever do it? 2. Is any appeal to them ever competent under the statute?

The packet goes by to-morrow's mail.

5th April, 1831.

My dear Kennedy,

Make yourself master of these proposed corrections, to be ready, in so far as you approve of them, for the Committee.

If the qualification is *not* to be raised, I think the bill, in its more important points, as good as we can make it, provided Port Glasgow can be married to the Wigton district. If it *is* to be raised, it is all wrong, because, in this case, no towns should have been taken off Counties, except Paisley, Greenock and Leith.

The people, at least the faithful, are beginning to get very much alarmed about this attempt to raise the qualification now, which however may, after all, be a dream. But I don't like three Peers talking over Jeffrey; and still less do I like batches of them

purchasing the ruin of Scotch reform by selling themselves to help through the English one.

I consider the Chief Baron's going to London a special Providence.

The Edinburgh and Dundee *bickers*—which the Tories hold out as foretastes of reform—have died away, and been succeeded by abuse of the magistracy, which abuse, as to Edinburgh at least, is most just. So, according even to our Town Council, William Dundas is done! If there be a dissolution, it will be the Provost or Jeffrey. Ever,

H. Cockburn.

From Lord Althorp.

Sir,

I take the liberty of most earnestly requesting your attendance in the House of Commons on Monday the eighteenth of this month. The Committee on the Reform Bill stands for that day and a division of vital importance to the principle of the measure may probably take place very early, upon some one of the instructions to the Committee which will be moved before the Speaker leaves the chair. I need not tell you how important every individual vote is on this question. The majority on the second reading was so small that we may expect the greatest exertions will be made to strike out of the bill some

of its most essential provisions, and I therefore cannot too much press upon you the necessity for a full attendance of its supporters.

I have the honour to be,

Your most obedient humble servant,

ALTHORP.

Downing Street, April 7th, 1831.

From Henry Cockburn.

Glasgow, 12th April, 1831.

MY DEAR KENNEDY,

Your last letter has come here after me. I have only time to say that I am clear that £100 and seven or nine years would make a better, by which I mean a more numerous and a better sort of a—constituency for tenants than £50 and nineteen years. There are strong objections to the nineteen years, founded on the fact that there are not many of them, except in certain districts. I have stated the point, not now, but often to many wise men, such as Keay, Maitland, &c., &c., and I would say that they are in general unanimous about it. It not only gives a better constituency, but has no tendency to hurt agriculture.

Your statement about the £15 plot has taken a mountain off my heart. It has transpired, and has made a great impression. Since I came here I have

had some difficulty in prevailing on the radicals to be quiet and have faith in Government.

Yours ever,

H. Cockburn.

18th April, 1831.

My dear Kennedy,

Your and Lord Rosebery's plain statement of facts about these Scotch county meetings has done much good here, by showing the enemy that the *words* "Highly numerous and respectable meeting," &c., &c., won't veil the *thing*.

Between ourselves, Jeffrey has half admitted into his mind a device of the foe about substituting valuation, *i. e.* valued rent for real rent. I have written to him expounding the effects and the design of this bill-defeating project, and I hope he will keep right. But be on your guard.

I have had a meeting with the people of Perth about getting them a member for itself, which object I understand that Kinnoul and Stormont have got a number of people to support in the House. They should have a member, no doubt, *if* there were one to give them. They say that the other burghs are willing to join the Montrose and the Kirkaldy districts. But this makes an awkward constituency, and I don't suppose that these other districts will be willing to take them. I have given them no hope,

but have bid them first secure the consent of the districts they propose to allot their own burghs among.

The town here is in confusion and dispute about finishing our approaches. It is a long and complex story, but *whatever* it may cost, I am clear that we must go on taxing till the thing be done, now that we have begun. But, whatever else is done, if you interfere at all,—and to this extent I wish you would interfere,—see that the clauses we got put into the first bill, for saving Princes Street, the Mound, and the Meadows, are continued. The magistrates would be delighted to get them slipt out.

Ever,

H. Cockburn.

22nd April, 1831.

My dear Kennedy,

I find it perfectly impossible to get you any information on which you could rely about the freeholders, at least within the time when I suppose you must have it. If a dissolution (for the post of to-day is not in yet) gives time, I shall try, and probably not hopelessly.

I am very much disturbed, and often greatly enwrathed, at our official defender's criminal candour and narrow-minded liberality. My God! Only imagine Scotland having been degraded by a higher franchise than England or Ireland, and this by the

act of Jeffrey! It requires all my affectionate devotion to the man to enable me to sustain these "follies of the wise." Will no devil suggest to him that justice to his friends is at least as amiable as injustice in favour of his enemies? However, he is an important person for the Scotch cause, and his failings must be kept as a tit bit for his particular associates.

At this moment, though I don't know it, it is over, one way or other. Whatever way it may be, a prodigious stride has been taken for the people, particularly of Scotland, who, do it who may, are now certain of having some representation. Have you seen the last Edinburgh Review? The reform article seems excellent. The speculation of Peel returning and passing *this very bill*, or one even more popular, does not seem to me so absurd as the author (the Lord Chancellor ?) seems to suppose.

Thomson professes to be about to leave this by sea for London to-morrow, about seizins and records, two subjects I take no charge of.

I regret to hear that the Chief Baron is unwell. His being in London makes me feel as if Arthur's Seat was lifted off my stomach. Ever,

H. Cockburn.

Post come, but no private tidings, so no one here knows what's to come next; but it is some consolation for the misfortunes of the country to see the delighted Tory faces.

From Lord Lynedoch.

Florence, 24th April, 1831.

My dear Sir,

I am most happy to think that I may almost congratulate you on the certainty of success attending the great measure of reform which you have so long and so powerfully advocated. I am however ignorant of many of the details of the measure, and I have never heard whether the Feuars of Scotland, the real possessors of the soil, are to have the privilege of franchise extended to them. They undoubtedly have as much right to enjoy that privilege as the copy-holders in England, and it will be a flagrant injustice and crying grievance if it is withheld from them. I have written two lines to the Lord Advocate of Scotland on this subject. I am confident your zeal in the cause, and the justice of the case, will induce you warmly to espouse their interest, whatever technical difficulties from the feudal rights of superiority may throw in the way. These undoubtedly ought to yield in some way or other to the just claims of property in the soil. Adieu, my dear sir,

Ever most faithfully yours,

Lynedoch.

To T. F. Kennedy, Esq., M.P.

From Lord Durham.

(Private.) London, May 11th, 1831.

My dear Kennedy,

The Lord Advocate must have been misunderstood. He could not have used any such expressions. *No alteration of the qualification is under the consideration of the Government.* The Bills remain just as they were—nor shall we, or can we depart from any of their principles—amongst the most important of which is the £10 qualification.

You may contradict the report as strongly as you please. I shall speak to the Chancellor to-day on the subject, that he may write to Jeffrey.

We are going on well in the South as you may see on the other side. Yours very truly,

D.

	1st day.	
Dorset—		
	Portman . .	229
	Calcraft . .	194
	Bankes . .	122
Oxfordshire—		
	Harcourt . .	1462
	Weyland . .	1392
	Norreys . .	1084
Northamptonshire—		
	Althorp . .	1434
	Milton . .	1243
	Cartwright . .	1065
	Knightly . .	800

Worcestershire—

Foley . . .	1247
Spencer . .	1027
Lygon . . .	946

Essex—

Western . .	2252
Wellesley . .	2153
Tyrell . . .	1612

Returns this morning—

21 for: 3 against, Bill.

From Henry Cockburn.

11th May, 1831.

My dear Kennedy,

I only heard of the words ascribed to our friend last Saturday, and instantly sent an express to Perth in time to catch him before the oratory of the evening began, to warn him to correct. I am told that he did so; and he now tells me that his words at the council here were misrepresented, and that nobody who heard him could suppose that he held out any hope of a lower franchise. I have no doubt that this is the case; but still I fear that his words were not well weighed. The instant I heard of the impression produced I wrote to Glasgow saying I was confident that he had been misunderstood. So I trust that no evil is done. But our *risks* from that quarter are very distressing. But remember still that he must be upheld, and our regrets are all between ourselves.

It is now six P.M., yet I have not heard the result

of the congregation at Stirling to-day. I tremble for it; for the Sheriff, against the directions of the Advocate—against the advice of the Vice-Lieutenant—and against the remonstrances of the Provost,—has issued a proclamation declaring his intention of obstructing the procession by force !

The abstraction of the Lauder Bailie is a sad scrape for Alderston—for it involves him in a committee—and may void the election—and the culprits (I don't say he is one) will be tried and punished.

If the mob goes to Ayr,—arrange with their delegates, and soothe and direct, instead of thwarting.

Our County election yesterday went off as unheard-of as in the good old time.

I have been with Richardson for two days on the Ale and Teviot. He is to be in London again on Sunday first. Ever,

H. Cockburn.

P.S.—Stirling all quiet at *half-past ten*—the people behaving beautifully — and everything will depend upon the Sheriff's sanity. Fleming is to be beaten, it is said, by three or four. H. C.

13th May, 1831.

My dear Kennedy,

Have you by you any spare copy of the returns that were made to Parliament about the number of £10 houses, &c.? I have never seen any of them.

Napier is very anxious that *I* should write an article expository of the Scotch bill. To which I have two doubts. 1. If it be worth while. 2. If I should do it, being in a situation in which, if the authorship were discovered (as to a certainty it will be) what I may chance to say may be held to implicate Government; and in which I cannot fail to make suggestions, and to urge views in consequence of things coming to me officially. Jeffrey holds both doubts to be futile —what say you?

Abercromby is here. Not quite well, but better than I expected, and very hearty seemingly. I had much discussion with him to-day, about the best mode of repairing the mischiefs of the late *lapsus*. I spoke to the author of it, but could not succeed exactly as I wished; but got him engaged to go to the Chiefs. How they settled it I don't know. The difficulty is that the very truth—after correcting all errors of reporters—is far from right. It tolerates the suspicion that the exact amount of the franchise is not irrevocably fixed; which I hold it to be, and the people are entitled to hold it. There must be no coquetting with that fact. However, I hope to get it put right by some authoritative statement.

Ever,

H. Cockburn.

Edinburgh, 20th May, 1831.

My dear Kennedy,

On looking at the English Bill, I am very much puzzled about the Scotch county qualification.

Look at the 9th section of the English Bill and observe the following things.

1. Any real property, and not merely lands and houses, give the franchise. "Any lands or tenements."

2. A lease of 14 years gives it, if the rent be £50.

3. Possession is required.

As our bill stands, the qualification is confined to *lands* and *houses*, held in property, and nothing is said about possession.

I am much disposed to extend it to the *dominium utile of all real property* except securities, and to require either actual or legal possession.

The Franchise should be thus expressed—

"Every person of full age and not personally "disqualified by law, shall be entitled to be registered "and thereafter to vote, as hereinafter directed, in "elections for counties, who shall, when he claims "to be registered and when he votes, be the proprie- "tor on a complete title, of the dominium utile of any "land, tenement, or heritable subject or subjects (ex- "cept securities) within such county, which land, "tenement, or subjects shall, jointly or separately, be "of the yearly value of not less than £10, after de- "ducting any feu duty, or other consideration which

"he may be bound to pay, give, or account for as a "condition of his right, provided he be also in the "actual or legal possession, or by himself or by "tenants, or by others for his behoof, of the subject "on which he claims and votes."

What say you?

Boyle has not improved his repute by his Ayrshire trip. Your riot was not wonderful, though to be regretted. Your Sheriff seems to have got some devilish bad law put into him on the nature of popular congregation. Ever,

H. Cockburn.

From Lord Althorp.

Downing Street, May 31, 1831.

Sir,

As the preliminary arrangements necessary at the meeting of a new Parliament will be completed, and the business of the session will commence on Tuesday the 21st of June, I MOST EARNESTLY REQUEST YOUR ATTENDANCE ON THAT DAY. It is unnecessary for me to call your attention to the importance of the Bill for the Reform of Parliament, which will be introduced at the earliest possible period, and on which a full attendance is most essential.

I have the honour to be, Sir,

Your most obedient humble servant,

Althorp.

From Henry Cockburn.

Edinburgh, 13th June, 1831.

My dear Kennedy,

I have received your letter enclosing me Mr. Matheson's to you, about the Sheriff clerkship of Inverness. I wish sincerely that it were in my power to do anything for Mr. Matheson, or for any one who, like him, has been one of the causes of our having you in Parliament. But in the first place this office is not in the gift of the Lord Advocate, but directly of the King ; and in the second place, even though the Lord Advocate's advice, when he is consulted, should be decisive, I have every reason to believe that this situation is already under promise to another. It must (I conceive) necessarily be given to a legal practitioner. Yours ever,

H. Cockburn.

21st June, 1831.

My dear Kennedy,

I wrote the other note on the 13th of June, and can scarcely tell why it has not been sent off before now.

I this morning sent the Lord Advocate a reprint of the Bill with some additions and some excisions; both, particularly one or two of the additions, important. The changes are all shown in italics. I

have told him if he be not obliged to give his two spare copies away to Government, to send one to you. If you don't get one let me know, and you shall have it by return of post. The Bill is much improved; and except in there being no provision for the expense of executing the act, I cannot make it better. The points we spoke of have still to be considered; as also whether it be necessary to force the Sheriff to perform circuits. It implies great expense to the Sheriff, and I can't say that I ever thought it much accommodation to the public.

I long to hear of the first onslaught. At this very moment (half-past 5 P.M.) the rabid Lords are in full cry. Tell me every thing.

I trust that there will be a good understanding established between Jeffrey and the new whiggery which Scotland has lately sent to Parliament. It is very essential on every account. And still more earnestly do I trust that no past or even future mistakes will occasion any want of openness or cordiality between him and you. I can easily understand how you should be annoyed and disappointed that that officer has not, in these times, turned out what all the wise would wish. I agree with you perfectly. But we must all remember what, in other respects, the man is, and what he has done; and it is not only our public duty, but due to private friendship. that we should uphold him the more, the more he needs it. So pray

overlook any thing and endure every thing ; put and keep yourself in constant communication with him ; —upon all points of the bill especially,—on which there ought not to be a misunderstood or unsettled word between you. There is no man to whom more kindness is due, or on whom kindness is less wasted. I don't hold out to you the hope that anything you may do will save you the agony of his habits or defects. But I am clear that while we curse his failings, we must patiently and good-naturedly manage them to the best advantage. Excuse these presumptuous and uncalled-for hints. Ever,

H. Cockburn.

From Sir James Graham.

Admiralty, 24th June, 1831.

My dear Kennedy,

Althorp, John Russell, Lord Durham, and I hope the Chancellor, dine here on Sunday to meet the Lord Advocate, and to discuss the Scotch Reform Bill : pray come and meet them at half-past seven, and put off any other engagement, for it is an affair of life or death.

The Advocate should bring with him several copies of his bill. In haste, ever yours,

J. R. G. Graham.

From Henry Cockburn.

24th June, 1831.

My dear Kennedy,

There are horrible whisperings here about putting off the Scotch bill till next session. If there be any foundation for this you must of course know it, and must of course have done what was right. If our affair be not carried as part and parcel of the English and Irish, farewell reform for Scotland.

I understand that that poor creature ——— has its project;—of course for obstructing actual, under the pretence of nominal, reform. Peebles and Selkirk too, I hear, are to be what is called saved, and the College of Edinburgh has petitioned for a member, &c. There is but one course for avoiding the confusion and obstruction arising from all this felonious concession, which is to concede nothing; and if Government does not enable us to do so, but yields to unprincipled clamour and folly, it does not do its duty to that part of the country which, from being most defenceless, has the strongest claim on its protection.

I trust from to-day's accounts that Dr. Lee's appointment* is stopped, unless he chooses (which he won't do) to give up his church. As the idea of

* To the Chair of Church History in Edinburgh University, then vacant by the death of Dr. Meiklejohn.

appointing him was suggested directly by Thomson, no error on the part of those in London could be more excusable; and then abandoning the scheme, after announcing it, is a better recognition of the anti-plurality principle, than if it had never occurred. I verily believe that if it were persisted in a majority of the General Assembly would quash it, as they very nearly did Dr. Macfarlane's Principality in Glasgow, and have an undoubted right to do. And this majority would have contained almost all the best friends of Government. The delight of the illiberal at our supposed falsehood to our principles is the best proof of the necessity of adhering to them.

Do, if you have ever any leisure, tell me all that is doing.

The anti-improvement public meeting held here two days ago, was a complete failure. Don't lose sight of Princes Street, the Mound, and the Meadows.

We cannot detect a single Ayr, or Ayrshire rioter.

Ever,

H. Cockburn.

30th June, 1831.

My dear Kennedy,

Your letter of course was given to the flames. Its details were very interesting and very satisfactory. So as they carry us through this session, and leave us

our £10 qualification, seven year leases, our proposed arrangement of towns and shires, and our fifty members, all the details are comparatively immaterial. There is only one thing, which I understand that they propose, and which is just sheer, total, plain, absolute nonsense. When a party differs from the Sheriff on facts I had provided a handy jury of nine easily collected persons. This is put out, I am told, and what is put in? an appeal to the circuit court!! No appeal at all may be right, but this abortive mockery of one won't do. The circuit judges have no time for that work, and though they had, it is not judges' work.

Thomson never took any charge of Pluralities, and never cared for, or thought of the subject, and he recommended Lee from mere kindness and thoughtlessness. Lee is a black letter man and a bibliomaniac. However, his defeat has given far more joy to the Antiplurality heart, than if he had never been in danger of being appointed.

I understand that some attack is meditated in Parliament on the Court of Justiciary for its Dundee rioter sentences. It is said that Lord Duncan is to lead it by presenting a petition from Dundee on the subject. The Justiciary has, God knows, been bad enough; but there is no use in blaming them where they are not blameworthy. Our law may be bad, but the law unquestionably is to transport for aggravated

riot, and this riot was as aggravated as possible. It broke out under no excitement, but the day after the illumination, for the avowed purpose, and to the effect, of liberating prisoners, by forcing the police office, attacking the Town House and gutting two private houses; access being always got by a battering ram, and fire applied to the doors, and the inside contents of all the houses, (except the Town House) being thrown out and burned. What could be done with these misled devils but transport them? and if they were to be transported, seven years is the minimum, and between that and fourteen, it is a mere matter of discretion. I have sent a letter explaining these facts and views to Murray, who says he is to send it to Duncan.

Ever,

H. Cockburn.

6th July, 1831.

My dear Kennedy,

Allow me to entreat your attention to a shameful trick which a party called Todd's heirs, are trying to perform against Edinburgh and the Mound. I have told Mr. Bridges, who is in London, to explain it to you. Its substance is, that, having got us to agree to be taxed last time on the faith of a clause prohibiting any buildings on the Mound except Playfair's Colonnade, they now wish to slip out of that, *or*

of any other such, restriction; and this, though a modified restriction which it has been found proper to adopt, is agreed to by the magistrates and *everybody else*, Playfair included. We insist that if the new plan should fail, the old one shall be adhered to. The Todds want the new one to be put into the bill *with a condition or two which may defeat it*,—and *no contingent revival of the original clause to be provided for*.

Ever,

H. Cockburn.

14th July, 1831.

My dear Kennedy,

Your question in the House about the course to be pursued with our bill has elicited a very satisfactory answer, and I am confident that you have done much good.

It would probably not be judicious, but I wonder how some people don't begin a petition to the King to multiply Peers; a hint which if once given would spread like wildfire.

Your Maybole and Girvan friends have been foolish with their 12th of July procession, and have not only, with firearms, wounded three persons and killed one, but have pelted the Sheriff Substitute. The exact facts are not all known yet; but so far as I can learn,

the Substitute did all that could be done beforehand to moderate and avert; and had succeeded in getting the Girvanites to give up their procession; and the mischief was done by an influx of orange Maybolites. I fear some of the special constables did not act as they ought.

By the bye, I see the Scotch papers pointing out a clause, or proposed clause, in a general Road Act for Scotland, printed by order of the House in June, 1831, by which it is declared an offence to have any *flag* or other emblem displayed within 100 yards of either side of any highway! If the statement be true, is Scotland never to see another procession? Are the members not to be chaired?

My tutor—of ten years' standing—lately got from the guardians of young Niddrie a presentation to Libberton. But from being in heaven he has been plunged into ——, by a doubt that has been suggested whether the patronage be not in the Crown. I have made Jeffrey write, and I have written myself, to Lord Melbourne, earnestly soliciting a Crown presentation, so that he may be chosen *under both*—and let the law decide with what delay it may, where the right is. An appeal to the heritors is, in the circumstances, impossible and useless—for they are mostly committed already to various people they urged upon the guardians, and as the guardians are

committed to Mr. Purdie (my friend) their agreeing is out of the question. The illiberal party in the Presbytery are very anxious for a man of their own principles; and not the less so if they at the same time can be enabled to say that the Solicitor General —the official organ of Government, in matters ecclesiastical—could not obtain the only presentation he ever asked. I dare say I am very partial; but on the whole it seems to me to be a strong case in my own favour, and I am in an absolute fever about it—an intellectual cholera. Can you do me any good? The Crown must present long before the right can be tried. You cannot do me a greater favour than in securing this kirk. I would prefer it to the presentation which the Belgians have given to Leopold.

How is orator Bruce? He is considered at Forres as the leader of the opposition. Ever,

H. Cockburn.

16th July, 1831.

My dear Kennedy,

When I last wrote you I was in a fever of anxiety about the kirk, and was not aware of the error I was committing in asking or tempting you to impair your power or do violence to your feelings, by applying for anything not absolutely and publicly

essential. I trust that you detected my folly in time; which won't be repeated soon.

I can tell you nothing more yet about Girvan.

Ever,

H. Cockburn.

Edinburgh, 23rd July, 1831.

My dear Kennedy,

I am delighted with your twelve burghs slain in one night. It lets one see the opposite coast. I cannot understand how these Lords are not put down at once by 50 or even 100 anticipated Peerages being thrown in amongst them. A strong measure certainly; but requiring far less courage than to let them throw out the bill.

What you say, and what from others I hear, of the Advocate, sinks me to the ground. My love of the man, my admiration of his powers, my sorrow for his situation, have not even the consolation of thinking that his official failure is unjust. It is my conviction of the truth of what I hear that chiefly vexes me. It is dreadful. It is nothing to the disparagement of any man that at his age he has not succeeded in Parliament or in public official life. But it is very bad for the cause, and terrible to me to hear him slightingly thought of. But we must make the most of it.

As to my going to London I do not see what substantial good it could do; especially as it is plain that

I could do nothing but with, through and for him. I cannot oppose him: I cannot even seem to supersede him; I cannot pass him by. However there is nothing that I won't do for this cause; and therefore all I can say is that if my presence be possible, and if it be thought material, I have no idea that I will resist,—I mean that I have no such idea now. How I may kick when the time comes, is a different question. My resolution is to be reasonable.

I have just got a volume of a Girvan precognition, but have not read it. I am very anxious to get the guilty punished at the next circuit.

Our civil force is in a shameful state. I perfectly agree with you in deprecating these provoking and dangerous fools called yeomen, and have long been clear that every county should be required to have in pay a sort of civil National Guard. Why should not every parish be required to furnish a certain number of men, organised, drilled, called out, officered, and managed, as the Lord Lieutenant should direct? A very simple bill would do it at once; and things can't remain as they are.

I do not know what the objection to the Sheriff's returning is, for the towns,—except it be that the town clerks don't want to be clipped. My reason for preferring the Sheriff and Sheriff clerks is that they are respectable and responsible, whereas the town clerks are neither. We must not be misled by

Glasgow and Edinburgh, or the great towns. Look to the small ones. The clerks are utterly unworthy of the trust. But it is really very immaterial. Their also keeping the register is totally out of the question. I have great fears of making any change.

I never see a radical newspaper, and therefore don't know what they say. I hear John Douglas is raving about something. But I do not believe that there is any turn in the public against the bill. The truth is that we have hitherto had it so much our own way, and the Scotch part of the measure has been so little discussed on its details, that we are too sensitive about it. I expect to hear shoals of criticisms, and am prepared to reject them almost all, rather than incur the risk of throwing shut points open. Let us get it once passed and we shall soon mend it.

I have got Libberton. Ever,

H. Cockburn.

What a piece of folly in Government to refuse continuing its £100 a year to the Chair of Church History. And in the same month in which it and the House of Commons vote ten times more for *Oxford!*

25th July, 1831.

My dear Kennedy,

I am told that the Perthites, by the aid of five Peers, are struggling for their one member, and the

East Fifers against extinction; and that both of them, particularly Perth, are strongly suggesting Leith as fit to be sacrificed for their accommodation. This last ought to be resisted *utterly*. Leith is no part of Edinburgh,—which is their ground,—but is its natural, or at least established, foe; and the effects of not giving it its promised member, are, that it would create permanent future appeals to Parliament, and that every party, or man, or measure with a bad object in Edinburgh, would be sure to have Leith for its supporter. As to the only other course,—that of classing the burghs differently,—I don't think that it signifies a pin in itself; but I can predict nothing from change and concession now, but more demands and more difficulty. Proclaim the bans, and try to get the consent of all parties interested to the new union, and see then what the objections will be.

I have read the Girvan affair precognition. It was a very short and disgraceful business. The Girvan people had no procession, and the majority of them were against the Orangemen. The other lodges from Maybole and other places, set out for Girvan with flags, music, &c., and most of them with a few men armed with swords, or fowling pieces. They met at the entrance to Girvan, where the Girvan authorities and special constables told them not to go through the village, but to take a back way. Some were for doing so, but others swore that

Girvan was theirs to-day, and that they would do for it, and would do as they chose, &c., and they pushed on. In a minute or so they came to a place where a parcel of boys and girls were in a field adjoining the road. Some stones were thrown at the Lodges from this field, on which a leader, called Jackson, calls out "fire." Another leader, called Samuel, instantly takes a deliberate aim at Ross a constable, standing a few yards off, and shoots him dead. Nobody else seems to have been wounded by fire-arms, but several by stones and sticks. The constables and magistrates seem to have behaved perfectly well; and the whole blame (bating the boys' and girls' stones) to have been with the Orangemen. About 34 persons were sent prisoners to Ayr, but they have all been liberated except about 10. Against two of these, Jackson and Samuel, there is a case, and against Samuel a very clear case, of murder; against the rest a case of mobbing, &c. I trust that they may all be disposed of at next circuit.

Ever,

H. Cockburn.

From Edward Ellice, M.P.

(Private.) 26th July, 1831.

Dear Kennedy,

It is very material that we should have correct lists of every division on the Reform Bill, and also of

the members who are absent, or who have paired. If you will have the goodness to assist me in this, by taking the names of the members for Scotland, of which I send you lists enclosed, you will very much oblige me. Charles Adam and Sinclair will, I daresay, have the goodness to assist you. Pray have the goodness to give me the lists as correctly as you can, immediately after each division.

Yours very faithfully,

EDWARD ELLICE.

From Henry Cockburn.

28th July, 1831.

MY DEAR KENNEDY,

On reflection I don't think that the polling could safely be trusted to the Burgh clerks, chiefly because they are so very low a set. You will observe that under the system, as in the bill, we have the security *both* of the Sheriff who presides at each polling place, and of the Sheriff Clerk, who officiates there also; the one as a head, the other as a hand. If the business was given to the Town Clerk, we should have nobody but one scamp at each place unchecked by anything judicial. Besides the Sheriff Clerk is not only a higher officer, but he is (I believe) by law entitled to make himself omnipresent in the form of as many Deputies as he pleases, and hence he, as the bill is, is made to send an emanation of himself to each polling

place. *The Town Clerk has certainly no such power.* He may get it to be sure by a clause. But what sort of persons would be named by a red nosed, tottering blackguard, in some burgh, rotten as its clerk?

29th. Eh man it's hot. But most agreeable. It is the broadcloth that is hot not the sun. I never saw heat in this country. Ever,

H. Cockburn.

Bonaly, Colinton, 9th August, 1831.

My dear Kennedy,

How are you coming on? The people in Scotland are getting very impatient. A word would make them break out in meetings and petitions everywhere, both to the Commons to make haste, and to the King to make Peers. Should they be encouraged, or checked, or let alone? I see you will have an awkward struggle about Perth, about the Fife burghs, and about Selkirk and Peebles. I say awkward, because if we lose any one of these, I see nothing we have to retreat upon. We shall get no more members, and if any of these places are to get one, where are we to take him from? Having smashed so many towns in England, I suppose that there won't be much tenderness for them in Scotland, and therefore it is not Perth or East Fife so much as Peebles that I am alarmed about. But if these two Counties be kept separate, we must just either quash, or join more

burghs. Why not save the member for that useless Stranraer district? But if fighting can carry it through, I would stick to it as it is; because no change can be yielded which will not breed more troubles than those the concession avoids.

The grouse are of opinion that Parliament should always sit in August. I hope a few of you will survive it. Has that modest man, Colonel Bruce, succeeded at last in destroying himself? Why does not Sir Willie get up?

Our weather is still delicious. I never saw such a summer. Not six bad days since the end of May. The greater your public virtue.

Ever,

H. Cockburn.

14th August, 1831.

My dear Kennedy,

I see from the newspapers that there is a work making in Parliament about the iniquity of letting a couple of justices shut up roads—particularly pathways. If this is to be corrected in England, you could do nothing more useful—more just—more necessary—more popular—than to get it corrected at the same time in Scotland. Of course most lairds will be against you, because they like the power of helping each other to a job. But the country will be with you. It is dreadful to see the number of useful and beauti-

ful walks which the people once enjoyed, especially near large towns where they are most needed, from which they are now excluded—and without the shadow of right. The truth is that a Scotchman's walk, if he has no ground of his own, is confined strictly to the highway.

The remedy should be, by taking away from the justices the power which they now exercise, and declaring that no road, and no footway, church road, bye-path, &c., should be shut up except by a decree of the *Sheriff*, obtained in a process to which proper parties were called, and in which the Sheriff's errors might be corrected by review.

Of course I except public highways—which the road Trustees may safely be left to do with as they like,—at least as much as now; for the public will protect itself on such occasions. But wherever the thing is withdrawn from the Trustees and put under the protection of *a court*, then this court ought not to consist of justices, but of the Sheriff. In short I would give a justice no jurisdiction over roads. If these require law, let the Sheriff give it in the first instance. This is the time, if there is to be an English move: I should think that a clause would do, without a separate bill. Ever,

H. Cockburn.

Bonaly, Colinton, 17th August, 1831.

My dear Kennedy,

If there was any application to bail the Girvan murderers, that offence not being bailable without the Crown's consent, I must have heard of it, if it had been serious; but as nothing about it has been heard at the crown agent's office, I greatly doubt it. The mere rioters might get bail from the Sheriff without our knowing anything about it. But I have caused the Procurator Fiscal at Ayr to be written to about the whole, and shall let you know the result.

I can't at present state the *exact* fact about the royal ducal interference; because it passed solely with John Cuninghame who is now in England. But what he told me was that one Scott, a W. S. agent for the Duke of Gordon, waited on him, as Advocate Depute, and showed or read a letter to him (Scott) from Gordon; which last proceeded on one to Gordon from the Duke of Cumberland, as the patron of orangeism, and its general object was to bespeak favour for the accused; whether by letting them escape untried, or to let them out on bail, or to be gentle, I can't venture to say till I see Cuninghame. But my impression is that it was a direct attempt to prevail on him not to try a murderer because he was an orangeman; for I well recollect C.'s answer to Scott —which was, that if it was the case of the King's

own son he would be tried. But you are not in safety in acting on all this at present. I have mentioned the thing to nobody beyond the Advocate, except to you. I have written to Drummellan to know about the local prejudice; for some say that it is strong in favour of the accused, and others, inter quos the Sheriff, say it is all against them. If I find it to be material either way, I shall make them be tried at Edinburgh in November. I understand that Hope is to be their counsel, and if so, my confident conclusion is that he is under Orange influence. If I can learn that any Solicitor General ever went to a circuit I shall go. But I don't believe it, and I suspect it would be taken up as a bearing down the accused.

Lauderdale has been in Edinburgh, and I always like him to be against my side, for I never knew him right. Therefore I am glad that he asserts positively that the bill is to be outlorded by a majority of 60; exclusive of all the Bishops' but one.

How incredible the folly of these mischievous disagreements on petty points among those who concur in the one thing needful. Fat Dixon's parliamentary eloquence must be very pleasing to all Scotchmen. I daresay that our scheme, like any other, has errors; but still I am for sticking to it out and out now; as on the whole the best. Don't fail to keep the ignorant in remembrance that we in Scotland have much precedent for quashing, as it is called, that is, marrying

counties. The principle of making up a constituency that is too small in one county, by joining another, is as old as the Union,—which put Bute to Cromarty, Clackmanan to Kinross,&c.—but in a much worse way, by literally quashing one county by alternate Parliaments. I have bored the convenience of firm adherence to our scheme so much into Jeffrey, that were I beside him I don't see that I could say more, or more strongly. Ever,

H. Cockburn.

20th August, 1831.

My dear Kennedy,

Three of the eight Girvan *rioters* are in jail for want of bail. The other five have been bailed; by weavers mostly.

No application has been made to get the two alleged *murderers* bailed, except once, verbally, to the Procurator Fiscal, in favour of Ramsay. But on being told that they were to be tried capitally nothing more was said, and no proposed surety was named.

So there is, apparently, no foundation for the idea that any high or noble person offered to become bail for them. Ever,

H. Cockburn.

Bonaly, Colinton, 28th August, 1831.

My dear Kennedy,

In the first place, your handwriting is becoming worse; which is so far satisfactory as it implies that it was formerly not as bad as possible. There is a whole page in your last which my most earnest study, aided by Wilkins's book and plates on the universal character, three systems of Stenography, the Memoirs of the Academy of Inscriptions, and a Coptic alphabet, has not yet made out. But I am going to Edinburgh to-morrow, and I shall try Dr. Browne, who deciphers the hieroglyphic pillars of Egypt.

I have written to-day to Jeffrey to take Richardson's aid.

I sent Quintin's letter to me to Jeffrey, and the result has been that the trials proceed at Ayr. The moment that I learned that some of the rioters were in jail for want of bail, I saw that this course was almost indispensable; especially as delay certainly led to their running their letters, as it is called—an operation which renders the slightest accidental flaw fatal. I have arranged that in addition to Jack Stewart, whose circuit it is, Ivory is to go too.

I have heard nothing about Collier's Tory proceedings in this country. But they may have deep and black designs without their being known. The refusal to pay taxes surely cannot go far, except among the very lowest of the low. Yet no doubt, if the bill

fail, numbers, poverty, ignorance, and wrong, make these low, formidable.

The preparatory private commissioners for defining towns in Scotland are proceeding under the indefatigable and managing Sir John Dalrymple, quickly, and well. Edinburgh, Leith, Porto Bello, Musselburgh, Haddington, Dunbar, North Berwick, were done by Maitland, J. Cuninghame, and Sir D. Baird, in four days, and well done. Keay and Will. Murray are up the south side of the Forth from Queensferry, through Linlithgow and Falkirk, to Stirling, and down the north side, from Stirling to St. Andrews. Sir Thomas Lauder, young Craig, and Charles Ross, go from Cullen to Kirkwall, and so on. There is no difficulty in it. Glasgow, I have no doubt, was done this week, by J. Campbell, Bontine, Shieldhall, Macgregor, Finlay—at least I believe that it was to be done by them. Campbell I am sure was one.

I daresay you are right about the footways. But it is a pity—for many a good one will be stolen from the people before a fit season occurs for checking the thief.

I strongly concur in your idea of making our Scotch bill as right as we can before it be committed, and then sticking to it as it is.

Take care of your health. We can't want you on the coming conflict. Have you a steed? The Master of the Horse should mount all decaying members of

correct views. Have you a box of pills? Do you ever take a bouse? Go to Richardson's and open his cellar and heart, and let us see you next day before Sir R. Birnie. Keep hearty, and never mind Dalquharran. Were I but King I would have you there, and under a passed bill for reform, in ten days. My old regal desire has been very strong of late.

Ever,

H. Cockburn.

Bonaly, by Colinton, 3rd September, 1831.

My dear Kennedy,

I have received your last letter, dated the 31st of August, enclosing Drummellan's to you—which I now return.

You say "I feel wrong in sending either this, *or the other*, of yesterday."

Now, in the first place, feel wrong in nothing with me.

In the second place I have not got "the other of yesterday." The letter preceding this of the 31st which I had from you is dated the 27th August.

In consequence of this gap both your last, and Drummellan's to you, are enigmas to me. I scarcely can even guess what they allude to; and there is only one part of Drummellan's in which he alludes to "the boy's name being gazetted amongst the other felons,"

which leads me to suspect that he refers to the case of Annesley, accused of firing into a meeting-house, and that he doubts the propriety of trying the youth at all, or at least of trying him at Ayr.

If it be so, a trial is absolutely unavoidable; especially since we the prosecutors are reformists, and so is the accused. Can we overlook an idiot firing thrice into a congregation—very nearly a capital offence? especially since the blockhead and his father are notoriously political friends of ours?

The trying at Ayr is a different matter. Since his family is offensive, from reformatory zeal, to the Tories, I should have thought that the prevailing prejudice was in his favour—it being certain that there must be more jurors on his trial of the lower, than of the higher, rank. He must be very unlucky if the prevalence of reform doctrine—the ballot—and his five peremptory challenges—still leave a majority of Toryism in the box. However, if there really be a prejudice against him of any strong kind, I see no harm in trying him at Edinburgh. But I fear that the indictment is served;—in which case it will be very awkward going back. You will observe too that he confesses the crime in his declaration, and, as I understand from his counsel, could not deny it on his trial. So that he is in truth solely in the hands of the court —and the jury-prejudice has no room to operate.

Is Lord Kennedy a reformer? For he writes me

strongly in his favour. But this is perhaps because they both love a shot.

So I see that Cutlar is against reducing the number of our county members. Does he mean to give us more town ones ? Ever,

H. Cockburn.

Bonaly, 4th September, 1831.

My dear Kennedy,

Your last letter has appeared. It had been mis-sent to Glasgow. Query—Is a gentleman entitled, in a franking age, to continue in Parliament, whose writing is in that state, that his best Edinburgh is taken at the Post Office for Glasgow?—*vide* Hatsell —*passim*.

I return Drummellan's letter to you. His fears and speculations are an amusing specimen of the skill with which suspicion may build up immaterial incidents and deduce great conclusions from nothings. However, such is my respect for him, and such my confidence in his sense and candour, that I have, since I heard from you, examined the case, and the result is that I see no reason for trying it at Ayr, provided I can be *officially* certiorated that there is a good reason against this. I have therefore written to the Sheriff, who he seems to think, and I cannot doubt is, safe, to have his opinion as to the existence of local prejudice likely to hurt fair trial. I think it better to avoid

communicating with Drummellan on the subject, as it may be known that he is a friend to the accused—but I have no objection to your explaining to him, any way you choose, what the result is. He may be *perfectly certain* that there has been no influence, even by remark, used with any of the crown counsel on this case;—and *he ought to be silent.* Ever,

H. Cockburn.

From George Lamb, Esq.

Home Office, Monday, October 17th, 1831.

Dear Kennedy,

I am directed by Lord Melbourne to acknowledge the receipt of your letter of this day. He is sorry that so much cause for alarm should exist at Girvan, but there can be no permission from the Secretary of State necessary to authorise an internal organization. It will be expedient probably to swear in a number of special constables, for which the new act, which has received the Royal assent, will afford great facilities. This will probably be the best measure as a temporary resource to give time for taking measures to establish a permanent police.

As the Lord Advocate will most likely not be able to return to Scotland for some time, you had better in his absence make any application that may become necessary to the Solicitor General. Yours truly,

G. Lamb.

From the Earl Grey.

East Sheen, November 4th, 1831.

Dear Sir,

A formal answer was yesterday sent to your letter of the 28th which was accompanied by the addresses from Irvine and Maybole.

I must now thank you for the information it gives me with respect to the state of public feeling on the question of Reform in your part of Scotland. The accounts I receive from other places all concur in the same description of the great and general anxiety which prevails upon this subject. As far as the sincere and strenuous efforts of the Government are concerned, I can give the most positive assurance that the public expectation will not be disappointed. Not a moment will be lost after the meeting of Parliament in introducing a new bill, which, I repeat my pledge, will not detract from the principle, or diminish the efficiency of the old one.

I am aware, however, that great impatience exists as to the time when this is to be done. The Ministers can have no interest in unnecessary delay, and we must claim credit for not doing anything which would endanger the success of the measure which all have so much at heart. Nothing is yet determined as to the period when Parliament shall re-assemble; but this determination must now soon be taken, and will

depend solely upon our view of what may be best for the public service.

In the mean time I trust that the friends of Reform both in Scotland and England, without abating anything of their zeal, will see the necessity of restraining by every means in their power, all intemperate proceedings, which can only assist the views of those who are opposed to that measure.

I am with great regard, dear Sir,

Yours very faithfully,

GREY.

I shall be, at all times, very thankful for any information you may wish to communicate to me.

From Henry Cockburn.

Edinburgh, 5th November, 1831.

MY DEAR KENNEDY,

How is your personal condition? In body and soul? Thomson and I and Rutherfurd have had many schemes of visiting you some Saturday after the Court meets; but our making it out is a different thing. Have you any notion that Parliament won't meet early in December? There is a rumour that it won't, but I suppose groundless. What do you say to these Political Unions? Some wise people recommend, some dissuade, them. The Edinburgh one wants Greenshields—an excellent safe man—or Mur-

ray, to become its president; professing to confine its objects to peace and reform, and its duration to the passing of the Bill. Their accepting may be dangerous, by the example; their refusing equally so by losing the control. I have written to London for light: but whatever course it may point out, it is plain that these associations will proceed—for good or for evil. Jeffrey is better. He has had a second cut —but is now at Wimbledon, and *Sir* Charles Bell says he is to be well in a week or two. A pretty piece of work the other Sir Charles—Wetherell—has made of it.* Does the sound of the Girvan recall the murmurs of St. Stephens to you? I trust that you are saying—like the good man to his soul—Body take thy rest. Feed it moderately, but generously. Put it, warm clad, on a horse. Walk it. Lay it long in bed. Purge it. So will it be ready for the coming round of the fight.

Remember me to Mrs. Kennedy.

Ever,

H. Cockburn.

* The public entry of this wrong-headed man into Bristol occasioned the well known riots in which much life and property were destroyed—he himself narrowly escaping with his life.

From Lord Althorp.

Downing Street, November 22nd, 1831.

Sir,

As Parliament is to meet for the dispatch of business on the 6th of December, I take the liberty of requesting your attendance.

I feel that after the long and fatiguing session which has so lately concluded, the calling upon the supporters of the Reform Bill so soon to resume their labours is pressing rather severely on their zeal, but I hope the importance of the occasion will be admitted as a full justification for the call thus made upon them. I need not impress upon you the necessity of a full attendance, and I hope and trust therefore you will be good enough to appear in your place at the meeting of Parliament. I have the honour to be, Sir,

Your most obedient humble servant,

Althorp.

From Henry Cockburn.

24th November, 1831.

My dear Kennedy,

Did not you once give me an idea on the subject of our Constabulary force? Tell me what it was; and if you don't recollect, tell me now, *ab ovo*, whether you have any view as to the best way of improving it.

How would it do to force the householders of £10, or any other sum, to provide a certain number of persons willing to serve as constables for each parish; which persons should be obliged to act when required, and would be paid by a parish rate? or what other scheme can you suggest for combining economy in regard to the revenue, efficiency, and making the force not unpopular?

So the third round begins on the 6th. I trust that the Tories will soon be deaf to time. They have long been so to reason. When do you go? The said Tories have got up an anti-reform meeting here for Monday first. It is a question with us whether we shall overwhelm them by a greater one.

Mark Providence in the death of a Bishop!

Abercromby is here. Ever,

H. Cockburn.

30th November, 1831.

My dear Kennedy,

The Girvanites will probably be tried upon the 28th December. Certainly that week. After the circuit they could not have been tried till the Court met in November; and then as the two cases will occupy two days, and Monday is the only day the Court has, if we had taken one of these days, the prisoners (to say nothing of the Crown) would have been put to the expense of keeping their host of

threatened witnesses for a whole week, as they are nearly the same in both cases; and therefore we have been obliged to wait till the recess, when the Court can sit on.

I have no difficulty about the Constable scheme except how to pay it. Wherever there are Police Bills, I would pay it out of that assessment. In other places it ought clearly to be a tax on heritable subjects; but there would be much difficulty in making machinery, and in declaring who should audit accounts, impose, levy the tax, &c. Would there be any harm in enacting that in the country, including all towns, not Royal Burghs and not with Police Bills, it should be in the hands of the Commissioners of Supply, *they being entitled to tax all real property according to its true value?*

The late Tory meeting here is considered by its getters up as an assembly of Gods. By those who were excluded, it is railed at as a packed hole and corner affair. The truth is that it was neither, but a very well managed, common-place meeting; fatal to the old system, by what it admitted; and by far the most conclusive of the decay of Toryism of anything that has lately happened here; for it demonstrated that even Toryism, with its utmost efforts, and in Edinburgh, could not produce one half of the middle ranks, nor half a half, or anything, of the lower.

I much fear (*but this is for yourself alone*) that

Government is likely to yield so far to the clamour of local interests as greatly to hurt our Scotch Bill. What say you to the idea, receiving even consideration of recurring to the system of *alternate* elections! —and of joining Bute and Shetland as a pair in this alternate system!!!—and of keeping Nairn and Cromarty as they used to be, paired!!! These projects have been broached in high places, though I know no Scotchman, except those with local jobs in view, who tolerates them. Ever,

H. Cockburn.

Edinburgh, 5th December, 1831.

My dear Kennedy,

Lord Althorp does not wish it to be known that the alternative of Shetland with Bute, and of Nairn with Cromarty, is seriously contemplated; but it is wished that I would collect some good Scotch opinions on this damnable project. But I make no bones of telling you exactly how the thing stands, though I am directed to state it as an *hypothetical* case. So in giving your opinion, treat it as a thing talked of, and write to anybody in such a way as that your view may be known in the proper place. Abercromby has written to Althorp, and you had better do the same. If you don't choose to do so write to Jeffrey or to me. Abercromby, I need not say, is amazed at it.

The evils are—

1st. The leaving of no constituency in any *one* of the married shires.

2nd. Creating five nomination counties, viz. Shetland, Bute, Orkney, Nairn, Cromarty; each of which, if taken by itself, falls inevitably into the hands of a Lord Dundas, or a Marquis of Bute.

3rd. Exposing us, most justly, to the imputation and risk of unsteadiness, and thereby encouraging all manner of schemes.

4th. Recurring to an old, exploded, and condemned principle of first holding a place worthy to be represented, and then saying that is only to be once in fourteen years.

And all for what? Why because there is a stormy sea between Shetland and Orkney, and because these people choose to profess to hate each other. Steam removes the one; a common member alleviates the other.

If any violence is to be done to save Shetland, the obvious course would be to join Orkney and Caithness, and give the Caithness to Shetland; or to quash the Wigton burghs. But any change now is full of folly and danger. So let your voice be heard somehow or other.

Jeffrey does not say when the English second reading will likely take place. Rae has been ordered up, and is gone. Traill, who is here, has been allowed to pair with Balfour.

I have long known —— and —— to be idiots, and if I could they should both be dismissed, as worse than idiots, to-morrow. But it all depends on ——

I have sent Jeffrey a constabulary scheme, which is in substance this—

1. In all towns *having Police Bills*, the magistrates to name so many constables for each hundred people; the expense to be paid out of the police funds, and of course from all real property, and the Commissioners of Police to have power, and to be obliged, to raise their tax so as to cover this.

2. In towns, *Royal Burghs*, but without Police Bills, the magistrates to appoint and to assess all real property for the expenses; there being an appeal to the Sheriff or the Circuit against any improper assessment.

N.B.—This last is necessary, because where the people do not name Police Commissioners, they have no other security.

3. In all towns, *not Royal Burghs, and without Police Bills*, where the population amounts to 1000, and where there are no statutory or other magistrates, as in the large burghs of Barony, &c. the *Justices* to appoint and the expense to be paid as in country parishes.

4. In country parishes the Justices to appoint; and the expense to be laid on the rogue money—which is

to be extended over all real property and to be managed by the Commissioners of Supply.

5. Though the magistrates and Justices appoint; yet to check improper or unpopular appointments any twenty householders either in parishes or towns to be entitled to complain to the Lord Lieutenant of any constable.

N.B.—This is merely to let them complain under legal protection.

6. The constabulary force to be under the direction and control of the Lord Lieutenant of the county.

N.B.—Large towns, such as Glasgow and Edinburgh, where the Provosts are the Lieutenants of the city, will object to this; but as a movable Provost is a bad head for a permanent force, I think it indispensable. If not these Provosts must be made responsible as Lord Lieutenants.

7. Every constable once appointed shall, unless he leaves the county, or be discharged, be bound to act for three years, and to serve anywhere within the county, and the immediately adjoining shires; every man wounded or killed in this service to receive the same pension as if he had been wounded or killed in battle; and to be liable to fine and imprisonment for misconduct.

8. The Lord Lieutenant to organize this civil force according to a system to be laid down—which system shall include a power of arming, mounting on horses,

drilling, &c.—the whole force to be assembled in masses for exercise at least fifteen days *each year*.

The three good thoughts in all this are: 1. Availing ourselves of Police bills. 2. Of supply and rogue money. 3. The responsibility and vigour of the one-headed Lieutenant. Ever,

H. Cockburn.

6th December, 1831.

My dear Kennedy,

It has just been discovered by an accurate actual survey of the town-dividing Commissioners, that the voters in the Wigton district are only 279, being below the number (300) taken as the zero for a member. Some people will say, cure this by making Kirkcudbright a part of the district. I say, No;—put the district into the shire, which will give a constituency to the county, and lay out the gained member on some other place. The plan should be (perhaps?) by giving two to Aberdeen, or two to the largest county,—or to Shetland, if this cursed island of fish and hose *must* get a job done for it. Anything better than alternation;—of which however we are in great jeopardy. Ever,

H. Cockburn.

12th December, 1831.

My dear Kennedy,

I shall write this night officially to the Sheriff Depute, mentioning no names, but saying in general that I am informed that there is danger in reference to the approaching trials, and warning him to take due precautions to preserve the peace. Since you have admonished the Lord Lieutenant, and I the Sheriff, we are not responsible, happen what may. I return the letter you sent me.

The horror of disfranchising is so great, that it seems the discovery of its having fewer than 300 voters is not to quash the Wigton district. So Shetland has no hope from that quarter, and I fear that the alternate system will be acted upon. D—— bad.

Why don't you tie like Traill? I see Cumming Bruce here still. Ever,

H. Cockburn.

Jeffrey tells me that it is in contemplation to introduce a general measure for Constables all over the empire.

From the Hon. George Lamb.

(Private.) Home Office, Wednesday, Dec. 14th, 1831.

Dear Kennedy,

I delayed answering your letter, both in expectation of receiving the communication from Lord Glasgow which I have not seen; and also to consult

the Lord Advocate, who, I understand to be framing a plan for a general police through Scotland. He however informs me that he has suspended his operations in consequence of the announcement of a measure of the same kind in the King's speech; nor does he think that the measure he contemplates will answer the purpose of Girvan.

I don't think it advisable to raise such a force of armed constables as is proposed. It is confounding too much the civil and military character, and we have always avoided giving the special constables arms; which indeed it may be doubtful whether it is legal to do.

I am of opinion the best thing you can do is to propose a Volunteer Corps, that is if you can officer it with men on whom you can depend for the preservation of the discipline of the Corps, and above all for the safety of the arms. There are serious considerations in the establishing such a force in towns during the present times. To such Infantry Corps, and especially when their services have been limited within a district, it has been usual to give nothing but arms.

As neither the Special Constables Act, nor Portman's bill for enabling parishes to institute a police force, lighting, &c., extend to Scotland, I think this is the only course you can properly take for immediately raising such a force as you want.

I write to you in Scotland, because, though you

talk of being here on the 19th, I think if you hear of our intention of early adjournment, you may have altered your mind. The 19th however will in my opinion probably be the day of our division, so come.

Yours ever,

G. Lamb.

From W. Ord, M.P.

Berkeley Square, December 18th.

My dear Kennedy,

Though I owe you a grudge for being so much more sharpsighted than myself, and for having contrived to remain snug in your den while you sent me off in a fit of patriotism to London, yet I cannot help showing my generosity so far as to tell you a little of what we have been about. First of all, I miss you mightily, and you have had a great loss in not hearing one of the finest speeches that in my long parliamentary life I ever remember to have heard —I mean Macaulay's on Friday. It was really wonderful. The philosophy, the powers of reasoning, the variety of knowledge and illustration, and the severity of the satire were all remarkable. Croker with all his talent, and all his impudence, and all his disregard of truth and readiness of fabrication, totally failed in his reply to it; and even Sir Robert, after four and twenty hours of study, produced nothing but the old and stale encomiums upon himself,

and which were no answer at all to the really unanswerable attack that had been made upon him, and which he had richly earned by his taunts upon the Ministers the first night that the Reform Bill was proposed. This was of course very satisfactory to me, who have been long sick of the pompous self-conceit and affected candour of that malignant Baronet. But my satisfaction was much increased last night by hearing Stanley give Croker such a trimming as he certainly never received in his life, and as certainly never expected to receive, or he would not have ventured upon such a tissue of false statements and false quotations of *Hume* as he had dealt out on the previous night. I never saw him so abashed. He was obliged to pull his hat over his face. Stanley's was really a great speech, and to great power added most admirable constitutional doctrines.

Then came our division, which you will allow was a *choker*, and now you have holidays till the 17th of January, rather too long in my opinion, but I fancy the Irishmen would not be content with less, and they are in a terrible state of dissatisfaction I fear. They are of course most unreasonable, and will be very unmanageable, and Stanley has not the art of making either himself or his measures acceptable to them. Their country too is in a horrible state I fear, and will cause great uneasiness and difficulty to the Go-

vernment. This terrible cholera too is adding to our distresses immensely; and if it spreads to London, as in all probability it will, the consequences will be disastrous indeed.

As for the chances and future fate of the Bill I cannot yet see my way, though it is clear that a very different tone is taken by the opponents to that of last session. We have so large a majority in our House, that except as an indication of the opinion of some of the Lords, the language of our opponents is of little consequence. But I cannot help hoping that the Bill will get into Committee, as it is clear that many are now disposed to admit the three principles of the Bill who last year would have nothing to say to it. You must condole with me on the fate of Morpeth, which you see resumes its station in Schedule B. But on the whole I think the Bill is much improved, and that our labours in the Committee will not be as long as they were in the last, as the facts of each case can now admit of no dispute.

Our return into the north is out of the question now, but I fancy we shall be wheedled into a journey to Bowood, as Lord L. will take no refusal.

I cannot make out that we had any converts in the division except *Warrender!* The Clives staid away purposely.

I suppose we must not look for you now before the 17th of January.

Remember me kindly to Mrs. Kennedy, and believe me, Yours sincerely,

W. Ord.

From Lord Minto.

Minto, 17th December, 1831.

My dear Kennedy,

I congratulate you upon the good fortune of having a sufficient excuse for escaping the December fogs of London. I take it for granted that the second reading in your House will not meet with any very formidable resistance, in votes I mean, whatever there may be in speeches. Our petition to the Commons was consigned to your charge. I will either send it up to some one else (and if so, to whom ?) or it shall remain to be presented by you after the recess. If you see no objection to the delay, I should prefer this latter arrangement, as it is not impossible that some conversation may arise upon it. * * * *

This establishment of factious Judges is an evil that we cannot now cure, but something ought and indeed must be done to mitigate it, for they have great influence and power of doing mischief, and as they are uncontrolled by the fear of a Bar, they are often willing to have it believed in their bounds that suitors will not fare the worse for their complaisance in other matters, and this impression is accordingly very general, and of course very efficacious. It is a diffi-

cult subject, but something must be done to restrain them, and I wish some of you would turn it over in your minds.

The conjunction of judicial and ministerial functions, and the indefinite character of the Sheriff's authority, together with his usurpation of the power of Public Prosecutor by the appointment of one of his creatures as Fiscal, is full of incongruity and mischief. . . . . ,

As I am a great friend to the Institution of the Sheriffs' Courts, I should like to see the Sheriffs themselves, in a great measure, restrained from meddling in matters not necessarily within their province.

I have a good opinion of the prospects of the Bill, even in our present House, and although I agree with you in thinking that some infusion of better opinions may be useful, and for aught I know, necessary in carrying on the Government, I should I confess be glad, if it be possible, to carry the Bill without any great creation for *that purpose*.

I am besides persuaded that we shall become more tractable, and that as the Cholera weeds out a few scores of our old gentlemen, we shall be somewhat modernised in our feelings and opinions.

I *believe* our Scotch Bill remains very much as it was, but I have no positive knowledge of the fact. If I could imagine there was any truth in the report of an intention of reverting to alternate representation of

Counties I would join in mobbing the authors of such an iniquity and tossing Jeffrey in a blanket.

Nothing can be better than the general state of feeling in this county ; a great deal of eagerness and anxiety, but a disposition to be satisfied with anything reasonable and substantial.

I say nothing of the Lairds ; we had a very good turn out of them at our meeting, but there are many of that class in our county against us, and it would be strange were it otherwise.

The farmers really care little about their franchise, and very many of them contemplate it with alarm, as likely to involve them in disputes with their Landlords.

Could you not contrive to give us a day or two at Minto in passing. It is scarcely out of your road, and I dare say we should have enough to talk over together. Ever yours most sincerely,

MINTO.

P.S.—It has been represented to me with a good deal of truth, that in the qualifying clause of our Scotch Bill, the deduction from the value of the estate, of the interest of heritable debt secured upon it, will practically have a very bad effect, and reduce the constituency of our small towns (so important to us) much more than may be generally supposed.

There is scarcely a proprietor in the little towns, or

indeed a small heritor anywhere, who has not debt. Whatever his occupation may be or however substantial and respectable his business, the chances are that he may have had some occasion to borrow money, and whatever he has borrowed is of course secured on his heritable estate, so that in point of fact there are few houses over which the Banks or the Country writers have not heritable bonds. As the success of the Reform in Scotland depends so much upon the admission of this class of voters, I wish this point could be well considered before the new Bill is introduced.

There is also much dissatisfaction expressed at the notion of so much scrutiny as this clause will occasion into the affairs of individuals. Yours, M.

I hear that some people are violently offended that I should have coupled Hunt and the Duke of Cumberland. I am sorry that I did so: not out of any tenderness for *either*, but because it was not in very good taste. The truth is, I had not had a moment of leisure to consider beforehand what I ought or ought not to say.

From Henry Cockburn.

25th December, 1831.

My dear Kennedy,

I shall send you notice from the Court at the latest moment before the post goes. I don't expect however that by that time (about 9 p.m.) the first

trial, being that of the two murderers will be over. I don't anticipate a conviction of murder against Ramsay.

If there be no outbreak at first, I should think that cooling for a few days would avoid it altogether. I would withdraw the Yeomanry by degrees, so as scarcely to let the total withdrawing be known at once. If Waugh be convicted, his execution day will probably be a more alarming occasion. It will be at Ayr.

If you could get people to serve as Volunteers, why not as Constables? I cannot doubt that 100 active and drilled men, would, with their batons, do all that even your district requires. It all depends on a proper head, and proper subalterns.

I advised Jeffrey to let William Bell—skilful in these matters—draw his Constable bill. But Richardson would be better. Somebody should clearly do it now.

Our fate, in the second round, in the Lords, is certain. I wish I saw even ten Peers made,—with a hint that, if necessary, more would come. More would not be necessary, if they saw by that fact what was determined on.

How honourable it is to the sense of our countrymen, that since ever they were promised the £10 franchise, universal suffrage has ceased to be talked of.

The *alternation* project is abandoned. Ever,

H. Cockburn.

Court, 28th December, 1831, Six o'clock, p.m.

My dear Kennedy,

The case for the *prosecution* is just done. So the result cannot be known before the post goes. So far as can be judged of, without hearing the defence, it is a clear case against Waugh, and no case—at least a weak one—against Ramsay. Ever,

H. Cockburn.

29th December, 1831, 9 a.m.

My dear Kennedy,

Waugh is to be executed at Ayr on the 19th of January; Ramsay acquitted.

We proceed to-day with the Girvan rioters, including Ramsay. They will probably be all convicted, except perhaps the said fortunate Ramsay; who from having done no actual personal violence with his own hand, has a better chance of escape from the mobbing than he had from the murder. The order to fire might bring him in for the murder; but all this being now disposed of, there is not much to connect him with the riot.

I give you the chance of this by our morning post to Glasgow, but fear you won't get it sooner than if I had written (as I shall) at night. Ever,

H. Cockburn.

29th December, 1831, half-past Eight, p.m.

My dear Kennedy,

I told you this morning that Waugh was doomed to die, and that Ramsay had escaped that fate. Ramsay was put to the bar again this forenoon, with the other rioters on his side of the question, and I expected another long day of them; but to my surprise they all pleaded guilty; Ramsay only not pleading guilty to his personally having, with his own paws, assaulted any of the persons set forth as having been assaulted. I made no objection to this exception, because it is true that he did not so assault, and because this will scarcely make any difference in the punishment. So every Orangeman has been convicted.

We then proceeded to try the Girvanites who assaulted the Orangers. But at this moment I cannot tell you the result. I left Duncan Macneill making an oration for them two hours ago, and the trial is not done. The *Court*,—I mean the Judges,—are clear against the prisoners; except a *James* Macgarva who I gave up—having no more evidence against him than against you. Sentence was not pronounced against the Orangemen when I came away; so I can't tell you anything about it to-night.

So far as I can see or hear, all the Ayrshire people connected with these matters, parties and witnesses, have got a great fright by these two days' work. I

have no idea that they will disturb you for some time.

What a merciful appointment George Jos. Bell is.* It absolutely *saves* a most excellent person; who would have been a judge had it not been for his honesty; and who, without being a judge, has, by his authority, decided every mercantile question that has been tried in this country for twenty-five years. Yet Gillies, who two years ago tried to prevent *Thomson* from getting £1000 a year in order that *Charles Ross!* who had £600 then, might get £400 more, is savage because he did not succeed in preventing Bell getting this sum, in order that the said useful and underpaid Charles, who has now £700, might get £300 more!

Ever

H. Cockburn.

30th December, 1831.

My dear Kennedy,

With one trifling exception, of a fellow against whom the failure of a witness showed no case, the *whole* Girvan birds,—on both sides,—are hit and bagged. I wish all the water had seen the row of them, including both Orange and anti-Orange, standing at once at the bar, undergoing sentence, and then, rammed into one felonious looking caravan back to jail.

It is proper that you should know, 1st, that Cum-

* To a Clerkship in the Court of Session.

berland and Kenyon have been paying the costs of the defence; 2nd, that a strong application has gone off to the said murder-hating Cumber, who is expected to apply to the King for a pardon at least for Waugh, if not for the rest. So Maitland, their counsel, tells me.

Ever,

H. Cockburn.

From Francis T. Baring, M.P.

Treasury Chambers, December 30th, 1831.

My dear Kennedy,

Many thanks for your letter. If others were as anxious to use their early information for the public service as you have been, we might be more useful. I went immediately to Ellice, and from him was assured that in case any appointment were made it should be with the distinct understanding that the appointee should not stand in the way of any economical arrangement. This is all that would be necessary, as for the present I am not aware that the Treasury is prepared with any immediate proposition which they can carry into execution.

I believe that ultimately we may come to your proposal, both in England as well as Scotland, and I cannot but expect that some such recommendation must emanate from the Commissioners of Accounts in due time. But the Scotch system of taxes has been more

than once tried, and has twice failed. We knock away the Receivers General, and any other English good thing amid hurrahs for economy, but touch the sister kingdoms and there is a firm phalanx opposed. At the same time, the best opportunity will be offered at the abolition of the Scotch Exchequer, and then the Treasury must do something.

I wish you were with us to assist in the labour.

Yours very sincerely,

F. Baring.

From the Earl of Minto.

Minto, 13th January, 1832.

My dear Kennedy,

They have been keeping the petition in the hope that you might perhaps pass this way. I will now direct that it may be sent to you with all proper and authentic information.

They have not ventured to attempt to get up any *petition* against us because they are afraid of exposure in Parliament. But a *conservative address* to the King has been circulated for signatures, which has been signally unsuccessful notwithstanding greater exertions, influence and intimidation than I have ever known resorted to in this county. I may probably be able to furnish you with some anecdotes respecting it when I have ascertained their accuracy. I am amused that you should be shocked with the proceed-

ings of Sheriffs in signing requisitions, &c., why in this County we should consider a Sheriff who confined himself to such exploits as a pattern of decorum. . . . . .

I believe with you that it is quite extravagant to expect anything but the most barefaced jobbing from the persons who fill this office in Scotland, but with the habits of our country I am not quite sure if the Barristers who might be substituted for them would be much more pure. However, as I believe I mentioned in my last letter, I have a great objection to the practice of placing all the provincial administration in the hands of the Sheriffs, whom I should like to confine as much as possible to their judicial duties.

Whenever you come to consider what should be done to put this office on a proper footing, your first step should be to provide that in future all the appointments in the Sheriff's court, viz. Substitute, Fiscal, and Sheriff Clerk, shall proceed from the Crown, and not from the Sheriff, who invariably jobs them. Our country writers here laugh at the extravagant pay Jeffrey gives to his supernumerary polling Sheriffs Substitute. They say there is no example of their receiving more than two guineas a day for the hardest day's work, and the longest ride, and five guineas is ridiculous, and will be a motive for jobs in appointing as many polling places as possible to put money into the pocket of the Sheriff's

creatures, who of course will take care, where it is at all possible to do so, to run the poll in to the second day.

What you say with regard to the heritable debt provision (which however is for the present at least expunged) is perfectly just in principle. But I see that the effect of the limitation will be even much more extensive than I had formerly imagined, and that it will deprive us of a very considerable portion of the most valuable part of our constituency. The English precedent does not weigh with me because it was in the first place devised for a much lower rate of qualification; and secondly, the situation of the two countries as regards their representation is so dissimilar that you cannot reason from one to the other. In England the greater proportion of Borough representation lets in a great body of the middle class *as occupiers*. With us where the county representation preponderates so much these persons do not vote as occupiers, and should therefore be liberally dealt with as proprietors in county elections. You may think me almost a convert to Radicalism when I say that I wish the *occupiers* in the *Boroughs* of *Barony* had stood in the place of the proprietors. We should have got a better description of persons as county voters from the towns. But this is out of the question. It is strange how little one knows of the real condition of the society about one till something leads one to examine it.

There is also a small point about which I feel some anxiety rather as an act of grace and justice than as practically telling on our elections. I should like to see votes given in the Burghs to the Deacons of the Trades, who may be considered as the representatives of the burgesses (which the Council is not) and the admission of the freemen in England lays a strong ground for this, which would give infinite satisfaction at present, and I think would be useful in giving the people some concern in the elections without much real power. This is a small matter in itself but not unimportant from the interest it excites. The *heritable debt* clause *does* however really and practically bear very heavily on the working of the measure, and should if possible be kept out, or greatly modified if it be introduced again.

Like many others I have been greatly alarmed by indications of too great a disposition to trust to conciliation and conversion in which I have no faith, as I know how readily people would slip from their professions just in the critical moment when it was too late to redeem the game. But I have now reasoned myself into a more comfortable conviction, that having resolved to resort to a creation for the purpose of carrying the Bill, ministers cannot be so weak as to boggle at the quantum that may be necessary to secure it. I quite agree with you that in justice and policy they ought to let their intentions be known, so

far as they can be divulged with propriety. Even those who at first sight are shocked at the notion of *forcing* the House of Lords, would view the measure differently if it had been presented to them as a thing that was to be, some weeks ago, for it is the surprise of a strong measure (where it is obviously justifiable or necessary) that strikes people who would receive it almost as a matter of course, if they had had it before their eyes awhile. I am always provoked by the absurd system of mystery in all our public transactions. Nine times in ten everything that passes in the Cabinet might be put in the newspapers. They understand this better abroad—though they can keep their secrets when necessary—witness Charles Xth's Ordonnance.

When you see Jeffrey pray urge him to proceed with our Scotch Game Bill. We are in a most lawless state on that subject here, and I wonder we have not had bloodshed.

I cannot say exactly when I shall see you. I have written to know if attendance is wished for at present; and shall go up immediately if it is thought useful. If not, I may linger two or three weeks here: but these are not times when one may consult one's ease, and if I hear of anything that makes my friends desire my presence, I shall make my appearance; in the mean time I have been far from well lately.

Ever yours most sincerely,

Minto.

Minto, 22nd January, 1832.

Dear Kennedy,

I send you a silly enough letter, which the writer thinks may be useful.

I hope our Petition has reached you, and that Mr. Rutherfurd has sent you such information as may serve your purpose.

The anti-reform address has been sent round like the fiery cross over hill and dale, and as I am told with marvellously small success, considering that all ranks, from the Lord to the Cottar, were invited to sign it. Our Sheriff is one of its most active promoters. It was prepared in Edinburgh, at a small meeting *there* of persons (with the exception of Hugh Scott of Harden), of no consideration whatever.

Write and let me know what you are all about, for I am detained here by measles in my family, and I want some encouragement to keep up my spirits about the Bill.

I have faith, implicit faith in the men, but there is something uncomfortable to me in the recent tone, and an irresolute air which must do mischief. To speak in the language of the day, and of the Boards of Health, their former loud and confident voice, has fallen into the ominous whisper, the vox cholerica, that indicates the collapse—write and tell me that this is all nonsense, that I may sleep sound.

I know perfectly well that there *must*, and therefore

will be a large creation. The Bill cannot pass without it, and the K— *cannot* if he would, allow the Bill to be lost. So that I look upon the creation as certain as if it were in the Gazette, and if so, why throw away the advantage of the confidence on one side and the despair on the other, which a bold attitude and an avowal of strong measures would produce ?

But one ought not to speculate on such matters at a distance. For I have no doubt there are good reasons behind the scenes for what a distant audience cannot comprehend.

I don't know how soon I may be able to move, for I am unwilling to leave my family long behind me, with cholera all round.

Ever yours most sincerely,

MINTO.

From Henry Cockburn.

23rd January, 1832.

MY DEAR KENNEDY,

Your Maybole friends, the potatoe mill destroyers, were brought to the bar to-day; but the Court, by a rash proceeding, made it necessary that the case should be delayed for three weeks. Their Lordships, from fright of Cholera, took it upon them to give orders to about nineteen jurymen, who were to have come from what they were pleased to hold the infected

district, not to attend! That is, in the teeth of the words and meaning of the statute, the Court chose to do what, though well meant here, amounted to packing the jury. Of course, the counsel for some of the prisoners objected—I concurred—and the Court, aware that they were wrong, adjourned. Their mistake has been not only innocent, but humane to the jurors, and no blame, beyond that of haste or thoughtlessness, attaches to them; but I by no means discouraged the prisoners from stating an objection which in point of principle was important.

As the reporters could not understand what took place, I have no doubt that it will appear in all the papers that Cholera rages so at Edinburgh, that the Courts are shut up.

So your next round has begun. Would you were well out of it—the bill up—and its foes deaf to time. Indeed they seem to be so already, for they don't care how much of it they waste. I regret the disjunction of Port Glasgow from Greenock; but to get a thing *fixed* is almost better than getting it made right. I conceive the junction of Cowall to Bute to be *absolutely necessary*, unless the intention be to create, in Bute, a neat little nomination county for his Lordship. Kelly is proceeding to London, with a deputation, and a petition, for County Courts, and God knows what,—which he expects the Chancellor to yield to.

Oh for fifty new Peers!

Twenty cholera cases yesterday at Musselburgh.

Ever,

H. Cockburn.

From Lord Althorp.

Downing Street, Monday.

My dear Kennedy,

Will you come over to me, as I want to speak to you directly. Yours most truly,

Althorp.

From Henry Cockburn.

3rd February, 1832, 12 p.m., dined out, slightly elevated.

My dear Kennedy,

You are not yet in the position I should have liked; because my scheme was that the Lord Advocate should be allowed to restrict himself to his proper professional or official duties, and that you should have been Secretary for Scotland. But, thank God you are in office, and double thank God that the office is not a sinecure. Occupation will do infinite good to your body and soul; and office, especially with occupation, will add immensely to your weight in Scotland. Nothing,—judging without any initiation into mysteries,—has ever given me more satisfaction. Go on, and work, and devise, and speak; and in all your proceedings or cogitations remember Scotland. And keep a horse—and keep up your heart, and be gay—

and attend to the viscera, and become sagacious and potent. Devil take your anxieties, and your fears, and blue devils, and bad stomachs. We may be out, no doubt, and they may be in; but the cause can't go wrong, and Scotland shall have ten-pound voters. This implies all the rest.

I suppose we shall see you here in your way to your re-election. At least we should do so. Tell me how the wind sits. I see gloomy letters from foolish men; but trust that their fears are vain.

Abercromby left this to-day, for London—*via* Stubbing. But how long he means to stay at the latter I don't know. Would he were fixed among you; for much as we revere and value him, he is plainly wasted here, and his sense would do much good in your House. The faithful here are disturbed by believing that Geo. Sinclair is much at Brighton, and yet voted wrong on that cursed Belgian Loan;—which they connect with the King. I suppose this is nonsense. I am sorry to lose Parnell; but it was plainly necessary. What a head a wise man can sometimes carry.

Fight,—and on your stumps, for Cowal being joined to Bute, and Orkney to Shetland.

Cholera and other things have made such delay already, that I have resolved to put off the potato rioters till the Circuit. It will only be a delay of two or three weeks, and it is perhaps better that they should feel local than metropolitan justice.

It really refreshes me to think that you are in office. Lord! were I but 30—and unmarried,—my God, with what zeal should I plunge into public life at this inspiring crisis! One fair contunding of that whelp ——, or that military dominie ——, would be reward enough for being Newgated by the Speaker. Dogs.

Ever,

H. Cockburn.

From the Earl of Minto.

Minto, 11th February, 1832.

My dear Kennedy,

I am not surprised, because I have been looking for it with some impatience, but very much delighted to find you are fairly harnessed to the carriage, and I trust, in the intention that you should not be confined to the duties of your office alone, but be felt as a Scotchman in the Government.

Pray keep our petition till you are able to present it yourself. I shall be in town, of course, before the time you mention, and may possibly have some *Sheriffiana* for you. I hope you liked my friend Hilson's letter to Craigdarroch—the composition was W. Rutherford's. There was the more spirit in the proceeding, as the pride of Jedburgh had been a little hurt by the preference of Haddington as returning Burgh.

You can have no idea of the degree of nervous

anxiety that prevails in this country. I trust you are doing well in London, though I am afraid as you say that there is in some quarters so much tenderness for the House of Lords as may induce a leaning to too much confidence in the professions of treacherous allies.

I do not see what object there would be in going to a second reading without Peers: though I do see that it would probably add greatly to the difficulty of creating a sufficient number for the Committee. I am supposing that we carried the second reading, after which we should be told that no difference of opinion remained except on some details, and that the Peerage was deluged with new creations, because we were too obstinate to concede one or two trifles.

I begin to hope that we are at the end of our cholera at Hawick, as we have passed three days without a new case. My last child is also in its measles, so that I am all but in a condition to move, and I am really impatient to do so, for besides the interest of the times, I am leading a very wearisome life here at present.

Ever yours,

MINTO.

From Henry Cockburn.

Edinburgh, 22nd February, 1832.

MY DEAR KENNEDY,

Let me trouble you to address the enclosed to

your friend Sinclair of grass seed notoriety, and to tell your servant to put it into the penny post. I want more of his velvet roots, but neither know his name nor residence.

How do you feel now? I hope strong, confident, and serene; temper joyous, viscera comfortable, eyes easily sleep-locked, voracious at breakfast, and Bacchanalian at least once a week. Surely cholera does not disturb you? It has not given ten minutes' uneasiness to above four or five people here since it began to rage all round us. But you Londoners seem to be in a panic; which it feeds on. How are we looking? New Peers coming—or old ones undergoing conversion? If cholera would take his seat beside the Bishops, I presume we would soon have a reformed Commons. Do give me news. I expect much edification from our opposing friends on the Scotch bill. The only thing that distresses me in it is the number of our virtually nomination counties. But contrast what we are, with what we are to be, and bless the gods. Ever,

H. Cockburn.

From J. Cam Hobhouse, M.P.

4th March, 1832.

My dear Kennedy,

Pray excuse my not having answered your note before.

You may be assured that I shall be most happy at

all times to have the advantage of talking over our mutual and (what is of more importance), our country's prospects with you.

At present they are most gloomy, and I do not conceal from myself that those who are on the street side of the door are more enviable than the inmates of a tottering house. But I am sure that both of us have done what is right—*cetera divis permitte.* To be a public man at all is to be exposed to some, and indeed, in these times to no little danger, and the difference between our peril and that of less apparent politicians is hardly worth a thought. If, however, like Quidnunc, one cannot sleep for thinking of poor dear old England —or as Pope says—

" ——— if your want be rest
" Lettuce or cowslip-wine probatum est."

Ever yours truly,
J. C. Hobhouse.

From Henry Cockburn.

7th March, 1832.

My dear Kennedy,

I am delighted to see your hand once more. No accounts of your reëlection have reached us here yet, but we understand you are safe. Would that the cause were so. But there seems (to us provincials at least) a fearful and mysterious pause about Peer

creation. Provided Government were positively resolved to create them, I am not quite satisfied that it would not be as well timed in the committee as before the second reading. But if the bill fails for want of creation at one time or other, our masters are either fatuous or suicidal. What a charge for History to be obliged to make against the Whigs, that, backed by the King, by the Commons, and by the people, they left the country and the constitution a prey to Tories or to Radicals!

What you say of the member for Perth, though I know it to be correct, grieves me profoundly. Such is the effect of unpractical habits on the highest intellect and the purest nature. However it is the duty of all friends to him or to the public to maintain him. I told him before about the necessity of having Richardson as his adjutant, and I have done so again to-night. Though he has been misled, I really cannot blame him for relying on Rae and Rosslyn on such a matter. Rosslyn has had the candour to write to the county of Fife, that if the bill be wrong, the error is not the Advocate's, but mainly his.

We have just detected a scheme of the Tories here to get up what they call a public meeting to petition against the creation. I doubt—and fear—that they have not courage to take that insane step; though as John Wilson is their leader, and thinks he is an orator, it is possible. If they do, woe be on them. The first

shot—and from that side—will be the signal for a general broadside from the whole country.

Horner's affair here is looking well. Ever,

H. Cockburn.

From Viscount Althorp.

Downing Street, March 29th, 1832.

My dear Kennedy,

If you could move the Ordnance Estimates either Monday or Wednesday, I should like it; but do not think of it unless you are quite up to the mark.

I am going out of town till Monday, so write your answer to Rice and settle the matter with him.

Yours most truly,

Althorp.

From Henry Cockburn.

2nd April, 1832.

My dear Kennedy,

I grieve to see that you have been ill. If you have any leisure let me know, in a line, how you are. If you have not, don't trouble yourself. I fear that you are too sedentary. Considering the almost impossibility of walking in London,—the excellence of the rides there, and the boundless command of horses, I always wonder how those who live there can resist daily equestrian exercise.

What a fearful pause this is. It is just on the turn

one way or other, with the Whigs. *If* they have the power of creating Peers, and yet let the bill be strangled, because they palter about exercising it—or *if* they have not the power, and conceal this fact from the country, whose belief is the reverse, and which is only quiet from this belief—or if, rather than be decisive either way, they accede to material changes and compromises, they are done; the radicals are in, and who shall say what's to happen next. If I were Earl Grey, I would exercise all the power I possessed to secure the end. If this were not enough, I would openly proclaim that it was my strength alone that was wanting, and having thus done all I could, resignation would be my very last step,—hoping that each round gave me another fairer chance of victory, and that for the true cause anything was better than throwing everything to the dogs.

But it becometh not a provincial to speculate on such matters. A few days will settle all. If the bill fails, anyhow, there will be a fearful outcry; only alleviated by the belief that Government could not have made it succeed, and that it stands by the people still. If the public belief shall be that its failure is the fault of Government, and the Whigs be out, then, what with alarm for reform, hatred of us, and terror for the Tories, you may expect something like a revolution.

I am told there are many points in the Scotch Bill

on which battle is to be given. None however are material except Cowal and that cursed Shetland. As to both, I would adhere to what has been announced. If this won't be allowed by Government, and if the principle of alternation were to stop with this one instance, the giving one member to Bute and Shetland alternately would be the simplest solution of the greatest number of difficulties. But it is a horrid and dangerous principle. Our great defect as to the counties is that so many of them are virtually nomination. Everything should be done to prevent this by increasing the constituencies. Therefore insist on making Peebleshire and Selkirkshire, since they wont have each other, take their respective burghs—which they wish not to do. Ever,

H. Cockburn.

8th April, 1832.

My dear Kennedy,

I am furious. The Scotch Members have induced, or nearly so, Lord Althorp to yield Cowal, aud to put the business into the hands of Magistrates and Town Clerks instead of Sheriffs and Sheriff Clerks.

The effects are :—

1st. That a new Bill must, at this time of day, be made. *Everything* in the arrangement, machinery, management, and responsibility of registrations and elections must be changed.

2nd. The thing is impracticable. I say nothing of smaller places, as to which, considering what the Bailies and their low villains of clerks are, it is plainly ludicrous. But take Edinburgh and Glasgow. You claim. A point of fact, or of law arises. Can it seriously be said that the grocer who happens to be Provost or Bailie is *judicially* to decide these points? His cheating through a legal and irresponsible scamp of an assessor is only making black blacker.

It is really intolerable that the selfish projects of ignorant blockheads should find favour, where the long matured wisdom of honest men is set at nought. I wonder if they are prepared with legislation for the simple fact that Town Clerks have no power (which Sheriff Clerks have) to appoint deputies. I almost *wish* that the bill may pass with an impossibility of Scotland electing a single town member. It is disgraceful, all which I have told to Jeffrey. But to be sure if Althorp opens his ears wide to the members *on both sides* what can be expected ? Ever,

H. Cockburn.

Observe a few necessary changes. 1. Town Clerks can't appoint deputies, which Sheriff Clerks can. In this respect the constitution of their offices must be altered, and the poll must be taken by fellows named by drunken, bribeable, blackguard town clerks.

2. The magistrates must act, I presume, *corporately*,

i.e. there must be a meeting of the Town Council every moment, and throughout the whole year.

3. If they act individually—who is to act? The Provost, or the oldest present, or any one? Provision must be made to compel the person who *begins* my case to *end* it; and also for there being a change of magistrates every September.

4. We have forbid all Sheriffs and their Substitutes to vote. So must we all magistrates; a result I don't believe that they intend. But probably this will be conceded too, and the whole election will be made to depend on the political agent of one of the parties.

5. We found it impossible to refuse paying Sheriffs, though they be salaried already. Can we refuse to pay these worthy hard-wrought Bailies?

8th April, 1832.

My dear Kennedy,

Your last letter is up the chimney, in the shape of smoke; an emblem possibly of the ministry, though certainly not of reform.

On the day that you receive this probably all will be known. I deprecate nothing so much as our carrying the second reading by a majority so small that it cannot carry the details. If we fail then, the result will probably be that Peel and Wellington, or

some such will say,—"We are against the whole scheme; but now that not only have the King, the Commons, and the country, but the very Peers, agreed in the principle, we honestly carry what is approved of by the whole, and you out and out men, who have foolishly pledged yourselves to the whole thing, will please to walk out, or we walk over your shamed and contemptible bellies." If this be the issue, there is no more to be settled.

But there is another possible and not improbable upshot, on which I wish you would give me your advice.

Suppose that an admirable bill, but not exactly this bill, can be carried, but that Grey and others who are pledged to the whole, retire because the whole can't be carried, while other true Whig reformers, such as Brougham, Holland, &c. continue, what in this event are you and I to do?—a vital question, possibly demanding a speedy answer, and touching many such as us.

My own opinion is clear. Office holders may be partial. But I think that our duty consists in doing all the good we can; especially when there is no alternative, if Whigs be squeamish and dignified, except to leave the public cause to Radicals, or to Tories. We cannot do anything, least of all can we adhere to power, to the tarnishing our characters, or even to the exposing of our object to the risk which always attaches

to popular abuse *when it is just*. But assuming that the breaking up of this government is to end in a proffered junction with other good men, the question is whether we are to adhere to them, or to throw all up in a lofty huff. I am clear that we ought not; with reference to Scotland in particular. I think we ought to do *absolutely everything*, not inconsistent with honour, rather than let the old faction back; especially since if they came, it would only be to do, but in a worse way, what we might have done in a right way. I have stated this opinion to Jeffrey. I should doubt if he would concur. A wise and honest man easily finds reasons for getting quit of the detestable office which he holds. But it is very material that those at a distance should be timeously kept right. Did Lansdowne suffer for joining Canning ?

However, I cannot yet despair; for I cannot believe either in the treason or the lunacy of our rulers. My fear is that they *cannot* create. But if so, why is not this proclaimed, so that the people may look to themselves? It is probably the last Whig government. A Tory one is impossible. So that I look for Radical days. A better prospect than Toryism could afford.

Lizars is not only medical, but a medical lecturer; a class which scarcely ever supplied a reasonable gentleman. His pamphlet is in many respects detestable. Hope you know. It was merely one of his

ordinary explosions, which denote nothing but that the exploder is ———. A couple of fools.

Tell Dudley to bite all his friends. I trust you are better. Take care of yourself, and keep me right.

Ever,

H. Cockburn.

If you ever meet with a truly scriptural man called Phineas Daniel, be gracious to him, for he is a modest, worthy, excellent person.

13th April, 1832.

My dear Kennedy,

By way of saving us from the *judicial* virtue of Provosts, I am told that the scheme now is to let in merely the Town Clerks to register, and to let the Sheriffs decide !!! There's innovation for you. The Burgh Clerk, appointed by the Town Council, is to be hand to the Sheriff as head, and is to be trusted in election matters when his proper masters are set aside as unworthy!

Now, besides countless other objections to this outrageous anomaly, I wish to suggest one to you, to which I see no answer—its impracticability.

Under the scheme originally proposed, there was always a Sheriff and a Sheriff Clerk together, at the known office, so that every man who came in with his claim had a chance, in many cases a certainty, of get-

ting his case disposed of before he came out. According to the marriage between the Sheriff and the Town Clerk this is impossible. Their offices, and even their residences are apart, and it may be by miles. In this situation the Sheriff can never do anything with any claim, till he catches the Town Clerk. Indeed as the Clerk is the recipient and custodier of the papers, the Sheriff may never see them till it pleases him to show them; or if they be lodged with the Sheriff, he can't stir till his Burgh friend shall appear to play the recording angel.

In short it is altogether a horrid mass of nonsense. How so wise a man as Althorp could turn a favourable ear to such wretches as Town Clerks, or their champions, on such a matter as this, and at such a time, is to me incomprehensible. Or rather it would be so, did I not recollect that on every point (I think literally on every one) which his natural advisers have urged, they have been laid aside for selfish councillors who have never thought of the subject. We have got the £10 franchise and other *English* things; but how have the Shires of Peebles and Selkirk been settled? Caithness? &c.? and how will Cowal be settled? The Towns of Peebles and Selkirk? Shetland? The Fife Burghs? No doubt with us the franchise is everything; but in arranging a prospective and permanent system, I cannot help, in spite of all my gratitude, feeling sorely the wanton introduction of glaring

blots, the bad working of which will hereafter be ascribed to the reform itself and not to any defect in it. The day may come in which a party may try to undo what is now given to the people, and it is our duty to prepare for that day by avoiding all unnecessary causes of irritation or annoyance.

Ever,

H. Cockburn.

16th April, 1832.

My dear Kennedy,

I take your scold very kindly. I did not, and do not, think that where you and Jeffrey were, I could be of any use. It is needless to growl or rail at what cannot now be helped, but the decision as to Bute and the Town Clerks is very unfortunate. The latter indeed is only temporary, for it cannot last long. Its own inconvenience will correct it. I chiefly regret it now on account of the proof it affords of what can be done by despicable movers, and consequently of our danger on other points.

As to Bute, the blot for which posterity will blame us consists chiefly in the excessive preponderance we leave to our earthy aristocracy. It not only prevails in all counties not manufacturing, but it has probably twenty, and certainly fifteen, counties entirely to itself. I bitterly grudge it getting Bute also. You say that Rothesay will keep that shire right. Now

the purpose of my writing to you *is to warn you against letting your faith in this be too strong.* My anticipation rather is that Rothesay, Selkirk and Peebles will all be left in their respective counties, which will complete the thing. Do keep your eye on this.

I trust that the success of the bill will render it unnecessary for either of us to act soon on the principles you mention about our own course. My first anxiety is to avoid not only just, but even plausible, objection; my next to avoid the (too) common error with honourable men of unnecessarily letting in pure enemies from a fit of hasty fastidiousness.

So we are plus nine on the second reading. When a bullet passes one's head by a hairsbreadth, it is all very well if that bullet is to be the only one. But the idea that there is a succession of them coming from such firers, makes me very uneasy. However as we are minus of these present, creation seems to be as plainly indicated by Providence as if the Bishop of Exeter had himself prayed for it. One of my children was asserting to its companions that the Bill had passed. I said "No, for it has to be read a third time." "Oh I thought it had been the best of three times." Now is there no form by which it could be made to go by the two first heats.

I am glad you are better. Take care of yourself.

Ever,

H. Cockburn.

5th May, 1832.

My dear Kennedy,

Your last is burned. The meeting here has done much good, and in the usual way. It has satisfied the people of their strength, and showed them how to use it, and exhibited the Tories in another humiliating contrast. Their only solace consists in asserting that there were not 1200 people present. They had better have said not twelve. These convocations have since spread and everywhere successfully. The Leith meeting was excellent.

As to Peebles, &c., I meant to have said that I feared they would *not* be left in their counties, and I fear it still.

Cordially do I rejoice in what you say about the Bill's prospects;—for we have had some ill-betiding letters, and from friends who ought to know. *It is said* that Belhaven writes that we may consider the bill as lost. But I have not seen his alleged letter. I did see an uncomfortable epistle from John Allen.

Jeffrey once, about a month ago, wrote one word implying that he was making or had made great sacrifices, thanklessly. With this solitary exception —of one solitary half sentence—he has never disclosed anything from which I could even guess that he felt any uneasiness. But if he thinks that endurance is his duty, I know him enough to know that

he will endure long before he murmurs. I grieve for him more than I can describe.

I perfectly agree with you about the *absolute necessity* of a Scotch secretary. But I doubt the prudence of making this a newspaper topic, because our associations and experience make us jealous of anything resembling provincial government, and I should anticipate their being against it, or being for it on absurd conditions and feelings. But it is a dreadful inference that, *though the thing be right*, Government won't stir unless impelled by public clamour. If those on whom Government relies be decided, this is precisely one of the arrangements which ministers ought to make themselves. A statement, not exceeding a letter in length, might easily be made, *demonstrating* the necessity of the change; and if all the honest and intelligent Scotch friends of Government concur, I should not despair of the Secretary being introduced without the press being set agoing on the subject. I shall send you such a statement if you think it worth while. If we could only get it read and explained to Earl Grey in the course of a walk with Drummellan, the thing would be done in a crack.

You see how bigotry is triumphing in our Presbyteries against Irish education. The union of the saintship of our own friends and the Toryism of our enemies will make us be defeated in the General

Assembly three to one. The enemy has summoned a public meeting here for next Thursday, confined to opponents. To counteract which we have called a general public one at the same hour.

Ever,

H. Cockburn.

Edinburgh, 14th May, 1832.

My dear Kennedy,

What an event!*—what villany!—what a public prospect! I have never had a doubt, or at least a formidable doubt, that the noble Captain's answer to Commons and to people will be, "Gentlemen, what are you roaring about? Is it not reform that you want? Well, you shall have it, and in the shape of *the* Bill." And he will not merely *say* so; he will *do* it. The only question is whether the country will submit to a person capable of doing so in the teeth of his declarations and conscience. What a picture of Toryism it is! I tremble for Scotland. It will be thought immaterial; the new Government are ignorant and will have no desire of information; our Scotch Tories will be wily and active; and I dread our being degraded by a peculiarly bad system being got up for Scotland. Be prepared for authori-

* Earl Grey had resigned, and the Duke of Wellington attempted to form a ministry.

tative proposals about such things as valued rent. The people here are ready for anything. But they are and will continue to obey the laws. Their feelings however are deep and intense. They meet to-morrow in the King's Park, to vote for a stoppage of the supplies. The Glasgow people are said to be anxious to send 6000 of their population to help their Edinburgh friends. We shall have enough of our own. What a summer and autumn are before us. Tell me what your schemes are. If dissolved, of course you come home. I hope your seat is secure. Abercromby is expected to-night. The Tories here put on gay faces, but they have fluttering hearts. They affect to hide the ——— of their leaders by chuckling at their success, and the uniform failure, even when right, of the Whigs. Ever,

H. Cockburn.

16th May, 1832.

My dear Kennedy,

Everything here and all over Scotland is as could be wished. The people like rocks,—and volcanic rocks,—but perfectly peaceable. The Tories here assert, and . . . . true men such as Meadowbank, the President, &c. adhere to the statement, *from personal observation*, that there were not 2000 at the meeting yesterday. There were at least 20 or 25000. The trades who walked in procession, were told off and

counted, and they alone were nearly 11000. The meeting was every way successful. The whole country is moving,—and yet I have not heard of one breach of the peace. "*Betrayed not Deceived*," was on one of the flags yesterday. It comprises the whole truth. What a radical his Grace is !—Our tidings here to-day are, that, without dissolution, you are to be reformed immediately, and by the Lords.—Take what you can get, and then let the people employ the instrument he gives them for the destruction of the profligate giver. *But keep your eye on the Scotch Bill.* Do you think that the hands it has now fallen into, will not, even though the English one passes clear, try to destroy it ?

Abercromby wrote that he was to be here last Monday, and nothing has been heard of him yet. I hope he is not unwell. Ever,

H. Cockburn.

18th May, 1832.

My dear Kennedy,

The Edinburgh petition, with 38000 names in two days, goes by this post to Jeffrey. I have written to him that it is essential *for himself*, as well as for Edinburgh, that justice should be done to it on its presentation. If you be present, it will not only be right, but will greatly streng then your influence

here, if you help to resist the lies, about a small public meeting, arts used to obtain signatures, &c. which Rae and others will no doubt assail it by. The meeting was *actually measured*,—like land, by instruments, and by being paced, (the pacing by Sir Edward Lees, the Tory Postmaster,) and it *certainly* contained *at the least* 25,000. Not a single exertion,—literally none—beyond placarding the signing places—was made to induce anybody to sign. A few fictitious names—such as Napoleon, Hadji Baba, &c., were detected—put down of course by the enemy,—but deducting all these wretched tricks, you have 38,000 in two days.

And observe, no violence, not even any disrespect. And this from a city fretted and insulted by its degrading exclusion from the representation. Can there be a better proof of its fitness for the franchise it burns for ? But all this you know.

What a scene this week has exhibited ! What Providences ! The noble purity of Grey and the Whigs ;—the spirit of the people,—constitutionally and therefore safely exerted ;—the base and natural expiration of Toryism ; the example of the worthlessness of mere military talent without public virtue.

Write ;—but only at your leisure. Ever,

H. Cockburn.

5th June, 1832.

My dear Kennedy,

William Bell is restless about Burgh and other Reforms,—and wants motions made now for preparation. I suspect it would be wiser to be quiet till we get a reformed Parliament ; for even returns require to be well pondered before they be moved for, and the motion is apt to excite and alarm.

I have a long list of things that must be improved. Of these there are only two which I suspect ought to be taken possession of now, because if we don't others will, and intermediate mischief may be done.

These are the Constabulary force, and our dens called Prisons.

The counties are beginning to hold Committees and to communicate about the first of these; but with little views and on bad principles, and it is miserable to see various small burghs, such as Elgin, &c., actually beginning new jails at this moment. They will never be good till they be made large—for districts—and under proper inspection. But before a year be out, many wretched attempts at jail-making and at a civil force will be made,—which always increases the difficulty of getting it done rightly. In order to check these bad little detached efforts, would it not be expedient to give notice at once of an intention to introduce a bill on these subjects next session? They ought both to be Government measures; but

Government can't be expected to embark in them at present, and they may hereafter be handed over to it. What say you ?

So Reform is safe at last !—an event not inferior to the Revolution. Our Tories here are in high heart in their certainty of our hatefulness at Court.

Our worthy member's retractation has been very useful here. I have no doubt that the attack will determine Sir John to let them have a run for the county. But he will tell you himself—for he sailed for London this evening.

You are aware that Dr. Maclaggan is a candidate for the chair of Medical Jurisprudence likely to become vacant here. Nothing can be clearer, in every view, than his claim. It *is essential* that he be not rejected. Ever,

H. Cockburn.

8th June, 1832.

My dear Kennedy,

Schoolmasters !—The thing is absurd and impracticable with reference to election business, and fatal to the duties and station of parochial teachers. I have endeavoured to explain this fully to Loch, and my object in writing to you is to say that if the forms of the House admit of its being corrected yet, this ought to be done.

I am glad that Kilmarnock is to be let alone. So I hope will Hamilton. *Nothing* should be touched. An appeal to the Court of Session, though to be rarely used, seems to me indispensable, for the correction of gross wrong, and the fixing of general points.

Can you give us a good member for Edinburgh ? Abercromby is sure and perfect. Jeffrey doubts; and after what he has suffered, I don't wonder that he does. If he won't, and we don't hold out a good man soon, we shall be taken possession of by a radical, probably by the Head of the Union. Murray may have Leith, and I trust will take it. Everything depends on our making a good start with our first Parliament. Would that the Unions would now disunite. The Head of ours says he will. But there is no reliance on a Fife head.

Can you say what's to come next ? I don't mean with the cause—of which I have no doubt,—but with the Government. I suppose that the Tories could not come in, if they were obliged to find surety for their continuing. Their belief of their being in power in a month is quite undoubting here at present.

Ever,

H. Cockburn.

From the Duke of Richmond.

London, July 22nd, 1832.

My dear Sir,

I find that the Post-Office Committee meets to-morrow. My brother is out of Town, and it is most necessary that Captain Goddard should be re-examined. Will you allow me to ask you to be present; and I will in the morning send you some questions. Believe me, my dear Sir,

Yours truly,

Richmond.

From Viscount Althorp.

Downing Street, Monday.

My dear Kennedy,

After my first conversation with you Lady Holland wrote to me to press you to alter your decision and to accept the seat at the Treasury. I declined to do this, and as you know took no step of the sort. You began the next conversation with me, and I never mentioned the wish of Lady Holland because I was determined not to influence your decision. You know more now than I intended you should, and the matter rests with you.

I think there will not be so much difficulty about your absence from Town as I had apprehended. With respect to the wishes of Lord Grey I can tell

you that I know that he as well as myself would be very sorry that you should not act upon your own wishes and judgment, and I do not think that the interest of the Government as a Government is much concerned in the arrangement, however the interests and wishes of individual members of it may be. With respect to this last class of interests the case stands thus. The Hollands wish for it to get a place for Charles Fox, and I wish it because I should like to have you to work with here, instead of any one else whom I do not know so well.

Yours most truly,

ALTHORP.

From Lord Lansdowne.

Holland House, Tuesday Evening.

DEAR KENNEDY,

In case I should not happen to meet with you soon I am anxious to tell you that there is not the least impression of the kind you apprehended on the mind either of Lord or Lady Holland.

They are perfectly aware that you could not be aware that any question about Charles Fox's appointment (not to your situation but another) was connected with your quitting the Ordnance. I am sure they feel as strongly as I do that the *move* was to be determined solely upon public grounds, before any arrangement consequent upon it could be thought of.

They are sorry that anything should have been said that could lead to any other impression, and perfectly enter into all your feelings on the subject.

Believe me ever very truly yours,

LANSDOWNE.

From Andrew Rutherfurd.

Methven Manse, July 24th, 1832.

MY DEAR KENNEDY,

I take great blame to myself in not having sooner acknowledged your letter of the 11th. A thousands thanks to you for your good feelings in favour of my application. I am perfectly satisfied with your answer, and if you are but one-half so successful with other demandants, which however you can scarcely look for, as they are not generally very reasonable persons, you may congratulate yourself on your fortune in obviating the importunities to which official life is subject. In truth I was very reluctant to trouble you at all, and only wrote because while I knew you would serve me if you could, I also knew you would understand that the last thing I should do was to urge any request to your real inconvenience. Therefore think no more about it, beyond remembering how much I value your friendship and feel indebted to your kindness.

I have nothing new to tell you of. This country

is all over in the bustle of canvass, which one regrets should have been commenced so early—but there was no help for it. Everything goes on well—so far as I hear. I would you saw our friend Murray at present, with *two committee rooms* in his own house, where the election business of Leith, Edinburgh, and Mid Lothian is *meant* to be discussed and arranged by committees and sub-committees without end, and with his usual appliances of red, blue, and black ink. I never saw him so thoroughly distracted with multiplicity of cares, partly assumed, partly thrust upon him. He has got quite keen about his own election, to the extent, think of that, that he goes to church every Sunday at some one or other of his seaports. By the way he should be called Union Jack—don't you think so? I wish you were all down here, as your presence would be of great consequence. Surely the opposition cannot, especially after their last effort, intend to attempt any embarrassing divisions in Parliament. If Jeffrey or Abercromby were in Edinburgh they would make assurance double sure. The Radical Aytoun has done nothing. The Tories I should say have no chance—but they seem disposed to do what they can by giving themselves plumpers for Blair, and endeavouring to get split votes from the other party. But it won't do. The number of voters in Edinburgh will be much smaller than one expected. I do not believe above 4000, although

expected at one time to be double the number. The difference arises from the number of *double* returns in the Police books, and for the assessed taxes, and the great number of houses occupied by women. Some people have got it into their head that under the Scotch Bill women may vote. Murray is in great perplexity about it, and it is somewhat awkward that the word "*persons*" has been used in our statute, instead of "males" as in the English. Despite of gallantry, however, there seems to be no ground for the claim, which has originated I believe among some of our *soi-disant* friends here, who shew their affection by cavilling at all you do. If you have given votes to women, what a regular *sans culottes* administration you will be. Tell Mrs. Kennedy that in considering the question here, no claim has been preferred except on behalf of the unmarried ladies, as it is agreed that the husbands can only vote by their wives' permission and direction.

Mrs. R. and I are now on a short run through the West Highlands, in the course of which we shall go by land to Glenfinnart to spend a few days with Fullerton. The distance I take it is near two hundred miles.

Excuse this hurried note. Remember Mrs. Rutherfurd and myself to your Lady, and believe me ever, Dear Kennedy, yours very sincerely,

And. Rutherfurd.

I shall be at home in a fortnight.

From Henry Cockburn.

24th July, 1832.

My dear Kennedy,

I read your excellent address with great pleasure, and trust it will bear good fruit. What volumes such addresses speak to a living Scotchman ! How completely the old select vestries are superseded, and how entirely with the approbation of all sane men ! Give us some warning when you mean to appear; for I fear that office, while it enlarges honours, abridges rusticity. Murray is member for Leith—certainly. He has done it very well. But it has kept and left him in rather an excited state. Matters seem to look perfectly well for Jeffrey and Abercromby. I have no fear either of the Radical or the Tory separately; but I can scarcely avoid sometimes having a quake about the two joining. Yet this seems too absurd to be practicable. Of the two, the objection would be strongest with the Aytonians. Sir John's being victorious in the county is too good to be easily believed. He has fearful odds in the want of towns, the prevalence of Lairds, and the servility of tenants. His friends talk confidently, but it seems to me inconceivable.

Thank God you have had a decent vote at last upon that nasty Russian business. But what awaits us in that sage and unreformed Upper House ?

I was glad to see you forewarn them that tailzies were not forgotten. The Burghs are the next great abuses to be corrected.

I am surprised and delighted to see so little appearance in the elections, so far as they have gone, of that rise of low radicals with which we were threatened. I suppose we shan't have above two or three more Hunts, but a houseful of good sound aristocratic Whigs. What may come the Parliament after the next, is a different question. It is quite clear that Toryism is over; that Radicalism is on the rise; and that but for the Reform Bill they would have taken all the institutions of the country by storm. Whether they are to be permanently repressed remains to be seen.

Ever,

H. Cockburn.

Edinburgh, 3rd August, 1832.

My dear Kennedy,

I cannot deny myself the pleasure of telling you that so far as Abercromby has yet gone, his success has been complete. He had a long, but from want of music, flags, and footmen, rather a funereal entry, and made an excellent short speech to the people from the balcony of the British Hotel, on Wednesday last. And yesterday he had his first convocation in the Waterloo Room. It was crammed, and he spoke above an hour. I was not there, being excluded from all such scenes, for which I feel contemptible; but *everybody*, including the most judicious, concur in describing the whole thing as perfect.

There were many Aytonians, who went to oppose and to question, but they were awed by the virtuous sense of the man into silence, and then allured by the contagion of example into cheers; and the result, I anticipate, will be Ayton's giving in. I don't believe he has 300 voters. Blair has about 1800. Jeffrey and Abercromby from 3500 to 4000. But—and *observe this for your own case*, it is very difficult to get people to register. It is astonishing how difficult it is. Hundreds won't take the trouble, and dozens won't pay the half-crowns. Abercromby fires off in a church at the Canal Basin to-morrow. How long this is to last I can't tell. Sir John's county prospects are greatly improving. I am *confident* that Douglas will fail in Glasgow, because he himself writes that he is quite secure. Sir Daniel is —— and not eloquent. He would give up his class!!! if necessary. Sir Daniel Sandford give up £1600 a year and a house!!! But he thinks that the Premiership is not too high for him. It is very possible that little Pringle may be beat in Selkirk; but I wish there may be any election there at all. Sir Walter's incapacity to act, to resign, or to appoint a substitute, and the 15th of August approaching, makes a case I can see no light through.

I agree to meet Quintin any day you may name.

Ever,

H. Cockburn.

Murray had a procession and a dinner to-day at Musselburgh. There is one, at least, of these things every day. The people full of spirit. But still very slow to register.

From Viscount Althorp.

Wiseton, near Bawtry, September 10th, 1832.

My dear Kennedy,

I am afraid I have been very long in answering your letter. I agree in some parts of what you say about the Corn Laws entirely, but I differ from you in some other parts, not in opinion as to what ought to be done, but as to what the effect of the present law has been. I entirely agree with you that if any change is to be made, it ought to be made at once and finally. Because everyone practically acquainted with agriculture must be aware that a gradually falling market is the most fatal of all things, and it would, if produced by any new arrangement of the Corn Laws, cause such lowness of spirits and depression consequently, in all persons connected with agriculture, as would have the most mischievous consequences.

I agree with you also in preferring a fixed duty to the present system. I think it would be equally good, if not better, for the farmers, and decidedly a great deal better for the revenue. But I am afraid you

are too sanguine when you say that all people are agreed upon this. On the contrary I am sorry to know that some, and those very influential ones, think the present system the best we can have.

I do not agree with you in thinking that we can estimate what is called the amount of the protection to agriculture by the average rate of duty received. Mind I do not admit the Corn Laws to have been any protection to agriculture at all. On the contrary, I think they have been most injurious to it; but assuming that they have, this protection arises from the difference of price here and on the Continent and not from the amount of duty actually paid. When the price here is low the duty is not paid, but still the existence of the duty excludes foreign corn, and raises the price above what it is on the Continent. If therefore you wished, by striking an average to ascertain what protection has been obtained, you would be nearer to an accurate calculation by taking the average of the duty demandable than that of the duty received. But this would by no means be accurate. The amount of the duty, in fact, on the present system, has nothing to do with the protection, or at least very little; because whenever the duty together with the charges of transit, exceeds the difference of the price on the Continent and here, it acts as a prohibition. And supposing the amount of duty twenty shillings, but the difference of price ten, the pro-

tection clearly is not twenty shillings but ten. I think therefore you never could persuade the farmers to agree to so low a duty as you mention. I think them wrong; I think, for reasons I will not now enter upon, they would be best off with no duty at all; but I think the other side, and both sides, might be brought to agree to a duty of twelve shillings, and this would be a great improvement on the present law.

I think it will be very desirable, if you have an opportunity, that you should make yourself master of the details of the treasury business with the Remembrancer in Scotland. It is what we shall want very much upon our new system of work and it will be of the greatest use in Downing Street.

My cattle are in high force, and I beg to say that I shall have seven bulls to dispose of, who will be fit for work next spring. I think they all promise to be good; they are well bred, of beautiful colours, and I am not extravagant in my price. Yours most truly,

ALTHORP.

From William Ord, M.P.

Whitfield Hall, Hexham, September 18th.

MY DEAR KENNEDY,

I wonder whether, like all the rest of H.M.'s Ministers, you are recruiting yourself in the country.

I hope so, and that you and Mrs. Kennedy are both well.

I saw in the papers that you were transferred from the Ordnance to the Treasury. I hope you like the change. I should think it must be a more agreeable office.

I have been in one continual round of speechifying and dinners, &c., ever since I came down. I never thought I could have said half so much, but I begin to feel like a tilted barrel, running rather muddy towards the bottom.

Last week was Morpeth Races, when my late constituents, insisted on giving me a dinner, and luckily it was very well attended and went off famously. So did our Reform dinner at Newcastle.

Bell and his party still boast of their prospects of success, but I really believe he has no chance at all—however I think they will go to a poll, unless after the Barrister's revision of their lists they see their cause to be hopeless. In the meantime they are spending lots of money—canvassing unceasingly and keeping open houses. We on the contrary are doing none of these things, so the virtue of the electors will be tried.

When do you expect the elections will take place ? I fear they can scarcely get them squeezed in before Christmas—and a January dissolution will play the devil with our voters in the mountains.

I hear Althorp and the Chancellor are expected at Howick. I had a message from Lord Grey to ask me to go there, but I cannot find time.

Lord Lonsdale has been to Brougham and the Chancellor to dine at *Lowther*—I suppose to meet that immaculate pair the Lyndhursts ! What next will happen I wonder !

I suppose all your elections will go well in Scotland —as they will generally, I believe, in England, though the Tories will regain a few counties.

I have been so engaged in my own affairs that I know nothing of what is going on, and I have heard nothing from any one, so the smallest donation will be gratefully received. I have never had a word from Faz since I left London. I wonder what has befallen him. I hope Ebrington and John Russell are safe, and I see Althorp is to have no opposition. William thinks himself *quite* safe at Newport.

Where is Whishaw? We heard of Sharp at the Lakes, and I fired off a shot to bring him to, but I suspect he had made off before my dispatch could reach him.

We have had a very dry but not a *warm* summer, and *my* corn is all stacked. I hope this will find you at Dalquharran and not at the Treasury.

With kind regards to Mrs. Kennedy, believe me,

Yours sincerely,

W. Ord.

From Henry Cockburn.

Edinburgh, 23rd September, 1832.

My dear Kennedy,

I adhere to my promise. But I can't fulfil it soon, probably not sooner than towards your last Ayrshire fortnight. I have the charge of Sir John Dalrymple's voters, and as we have about 410 objected cases to discuss, before a slow Sheriff, who only begins on Wednesday first, and my adversary is that quick, sweet-tempered young man, the Dean, I see no chance of our being done before the middle of October. Instantly when free, however, I am with you. Old Thomson shall be roused ; and I shall give you due warning, so that you may have Drummellan ready.

Midlothian, though we talk big to the public, is very doubtful. Sir John has *decidedly* the best of it at present; but he has a canvassing enemy in every Laird, and nobody can tell the effect of this with two months' time. Wherever there are *people* he is safe. His danger lies in solitary seats and slavish tenants. Ballot is preparing, and the Tories will force it at last. Linlithgow, I understand from Rutherfurd, who assists Hope Vere, is perfectly safe. Fife I believe is very doubtful. So is Inverness; where however it is said that the elements have interfered to prevent there being any election by baffling all the machinery. The Green Pear of the Yair is certainly plucked. The wabsters of Galashiels and the sutors of

Selkirk will *certainly* skiver both him and his ducal master. Roxburgh also is beyond risk. Forbes Blair will hold out, and his friends *say* he will succeed, which shows how far the power of exhibiting a good face may go.

I am full of matter and long to pour it out on you. Burgh Reform—Constabulary—Entails—Seizins—Police—Law of Evidence. These are the mere upper bubbles of the deep pool beneath.

My great source of hope for Sir John arises from the more than ——— blackness and temper of Sir George's legal adviser, our revered Dean. If he had overheard God Almighty questioning his pretensions to equal power and glory, he could not be more magnificently sour, more intensely furious, more offensive, more absurd than he is. He must feel that it is in a bad way. What a blunder that he is Deacon!

I have been with Richardson. He is well, and very happy with his own clods, his own garden, his own cow, his own trouts, his own turnips—and no clients. I came home yesterday, and saw Abbotsford lying most splendid and peaceful with its illustrious remains.* I should suppose that Richardson would be one of his executors. Ever,

H. Cockburn.

* Sir Walter Scott had died the day before, September 21, 1832.

Edinburgh, 5th October, 1832.

My dear Kennedy,

I intended to have been with you next Wednesday the 10th, and had written to Thomson to go with me. He says he is going to you to-morrow however, which I cannot possibly do. So as the country meeting has failed, pray tell me, if possible, immediately, what day you are to be in town; because, having made up my mind for an expedition, I shall go to Fullerton's on Wednesday, and should like to exclude all chance of missing you here too.

Ever,

H. Cockburn.

From Sir James R. G. Graham, M.P.

(Private.) Admiralty, 6th October, 1832.

My dear Kennedy,

I return Mrs. Deane's letter, and I am sorry that I cannot give any positive or immediate assurance of the promotion of her husband, for which you have expressed so much anxiety.

I shall be glad to see you again here; active preparations must be made for meeting the new Parliament; and though the difficulties which surround us are great, yet if true to our principles and firm in giving effect to them, we need not fear and shall succeed. I am, always, yours very truly,

J. R. G. Graham.

From Henry Cockburn.

Edinburgh, 14th November, 1832.

My dear Kennedy,

The dismissal of my friend Nairne has made much talk, and done much good. It is expected to be followed by more acts of the same kind, and whenever there are overt acts of hostility it ought to be so. The hopes of those of our party who are thirsting for office are of course excited, and successors are already named to every place-holder of the opposite faction. But I do not think that they ought to be gratified beyond the cases in which those drawing the pay of the existing Government are openly opposing it.

I have not seen the terms of Nairne's intimation; but *I am told* that his dismissal is put upon its being intended to make some *new arrangement of the office*, or upon something of this kind. Now he has written or says he is going to write to the Barrack Board, expressing his hope that what has taken place is not intended to affect his *character*, and does not proceed on any doubt of it. If any answer should be sent to any such letter, care should be taken, while all manner of justice is done to his character, which is most excellent, to avoid anything that may justify him or others in saying that he is parted with merely in consequence of there being arrangements in contemplation which render his assistance *unnecessary*. If anybody else is to be appointed this might be

awkward, and it seems to me to be useful that he should be left room to connect what has happened with his late electioneering conduct.

I have had some talk with Jeffrey about Burgh Reform,—on which however nothing definite has yet been possible. There will be some difficulty about Corporations. It is awkward for him to encourage anything of the kind without being sure that Government goes along with him, and therefore he has written to Lord Grey (I believe to him—but certainly to Government) on the subject. He cannot let it alone, for his constituents are urgent. The Member for Leith is complex on the matter.

I hope that Cruickshanks gives you no uneasiness.

Ever,

H. Cockburn.

From Francis Jeffrey, M.P.

(Private.) Edinburgh, 16th November, 1832.

My dear Kennedy,

Can you furnish us with any copy or duplicate of a Treasury minute which we understand has been recently issued, taking away at once our Barons' work and duty in Treasury matters. If such a thing has been addressed to them, they keep a sulky silence about it, and I am assured, *are going on* with their

Treasury work as before, waiting, it is supposed, for the effect of some remonstrance for having this order recalled.

I do not ask the question out of curiosity, but because I am informed that various parties have applications to make, on Treasury matters, who are anxious to know to whom they should now be addressed—and I agreed to make the enquiry, after a full consultation with Cockburn and Jo. Taylor.

I send in a separate packet, through S. Rice, a bunch of papers about the claim of David Robertson, First Clerk to the Solicitor of Customs at Leith, and for the last three years *acting* as *interim* Solicitor. He wishes, you will see, to be made permanent Solicitor, at such salary as may be thought fit—and to have a clerk, with not less than £75, paid by the public.

Besides the papers now sent, he laid before me (at my request) a view of the amount of business done by him, since the suppression of the Local Board, compared with what was done by the Solicitor before, and the result was that the labour was nearly equalled, the amount of penalties and revenue received quite as great. I have no doubt that so long as we are to prosecute here for penalties and forfeited surety bonds, it will be cheaper to have a regular Solicitor with a moderate salary always at his post, than to send down one express for every trial from London. I do not exactly know what salary he

expects, but from £500 to £700 would not be extravagant.

I believe Robertson to be a thorough man of business, and in all respects an excellent person. He was the first man in public office who ventured to go to a Fox dinner, six or seven years ago, and was certainly brow beat and bullied and kept back in consequence by his superiors.

You see I already lay on you the full burden of the Treasury Lord for Scotland. Ever yours,

F. JEFFREY.

Oh this war !

From the Lord Chancellor Brougham.

(Private.) 48, Berkeley Square, Nov 17th, 1832.

MY DEAR KENNEDY,

I should be much obliged to you if you could look over this paper, and add any notes of the kind you see, to the names that are without them. I have a particular reason for desiring to have this account of the candidates.

Pray also put

M. Ministerial,
O. Opposition,
R. Radical,

against the different names.

If you could let me have the list before six on *Monday* evening, I should be much obliged to you.

Yours ever,

H. B.

I enclose you G. Craig's list.

From Henry Cockburn.

Edinburgh, 24th November, 1832.

My dear Kennedy,

I have been in Glasgow undergoing installation as Rector, for two days. I saw James Oswald, who you know is a sensible and liberal man, well acquainted with that place, and the safest exponent of the soundest opinion in it. Something has been doing, chiefly through Admiral Fleming, about getting a Baronetcy for Dalgleish, the late Provost. Oswald and others are much interested in this, and wished me to write to you about it.

Dalgleish's merits are very simple, and I think great. He has been chief magistrate of that dangerous place during the two last eventful and exciting years, —when a foolish Provost might have made tumult at any one moment by either a little too much love of popularity, or a little too much hatred of it. Dalgleish is a plain, respectable, fair man, rather more of a Tory than of a Whig, and not a strong Reformer,

though by no means hostile to it in all degrees and forms. He was beset by Radicals, Whigs, and Tories, each urging him to violence. He at once took his line—which was, to assume (in strict accordance with the fact) that the Tories were mad—that the Whigs were, on the whole right,—and that the Radicals must be managed, not obstructed; and to this he stuck firmly. The result was, that these two years of fever passed over—even in Glasgow,—with abundance of excitement, meetings, processions, and all sort of party fury, but with the utmost public order. I am certain, from my own knowledge, that this was mainly owing to the magisterial fairness and good sense of this one man. It is rather favourable to any honour that may be done him, that it cannot be ascribed solely to his political opinions agreeing in all things with those of the party in power, because they do not,—for this would show that it was given him purely for civic good conduct, an example of which Tory magistrates stand much in need.

I can't help considering it as doubtful whether this respectable man would like to be called Sir: but if he would, these seem to me to be the facts from which the propriety of indulging him may be judged of. The popularity of doing so, cannot be doubted.

Ever,

H. Cockburn.

29th November, 1832.

My dear Kennedy,

You may certainly depend on my sending you the draft, or bones, of a bill for the Sheriffs' circuits. It is in vain to expect any good of Richardson in the way of detail during his rustication. But when he gets to London, in a few weeks, you can give him the heads I shall prepare, and he may fill in the rest. It is a good and a very simple measure. The names of the places can only be got from people of local knowledge, for the polling places won't do. They must be in a schedule. Three times yearly I should think enough. The only thing I see no daylight through is the expense. The clerk paying seems to me difficult. It comes to this, that the poor suitor is to pay; because if the fees paid by them be so high that the clerk can pay himself and the expense out of them, they ought to be lowered. Still if we had a return of what his fees in such matters actually pay, and it was found too much, it might not be wrong to make the suitors pay for this *accommodation to them*. Perhaps something might be taken from all the other fees and applied to the same purpose.—I shall think of it.

Jeffrey and I have had many talks about Burgh Reform, and we plan a simple measure, confined merely to making the elections popular. But we

shall be sore beset to introduce things about accounts, sets, &c. My view is—

1. That all on the Reform register, and *all burgesses* shall elect.

2. That they shall name no office-bearer but the Provost, all the rest to be named by the elected.

3. To give charters, on these principles, to the towns, brought now into rank by the Reform bill.

4. To make the elections triennial. But on this last I shall be controlled by others, who are roaring for annual elections. I dread and hate the yearly change and excitement. I would rather have it quinquennial. Clearly put it into the King's speech.

Thomson is clearly your man for Seisins—if time be immaterial.

Your plan for Tailzies seems good. Stick to that subject.

My heart bounds to see these things introducing to this rescued country.

Sir George's prospects in Midlothian are not so pleasing as he would like, and as the time approaches Sir John is on the rise. But I cannot say that we are absolutely certain. I am glad that your opposition does not disturb you.

How ill the people of the West have behaved. Wallace certain,—Douglas far from hopeless for Glasgow. Lanarkshire in great danger. Kilmarnock taken in by Tory professing Radicalism. Ever,

H. Cockburn.

Edinburgh, 18th December, 1832. 4 o'clock.

My dear Kennedy,

At the close of this day's poll, Jeffrey is about 3000, Abercromby about 2900, Blair about 1100. If the latter continues polling, the odds will be greater against him to-morrow.

Murray was nominated to-day at Leith; when, like a fool, Aitchison after letting himself be put up, withdrew without demanding a poll. Murray was instantly declared elected, and was chaired up to his own house on the spot. I never saw a more beautiful spectacle than his cortege of flags and music; masses of sailors, and old fishermen, models of ships, &c., he himself seated on a chair, placed on a large board, looking as large and gracious as if he were M.P. for Scotland.

The County nomination is to-morrow. Would this act of the drama were well over. We have great hopes; but the efforts of the Tories are villainous beyond all belief. Ever,

H. Cockburn.

I have now got the exact numbers. They are :—

Jeffrey . . .	3437
Abercromby . .	3288
Blair . . .	1282

19th December, 1832.

Dear Kennedy,

Poll closed:—

Jeffrey . . .	4028
Abercromby . .	3855
Blair . . .	1529

The two former are to be chairified on Friday.

Sir John nominated to-day—in great glory. William Murray made *a most admirable* speech, and Sir John one no less admirable. Lord, what they are doing in the County! Were it known, the Ballot would be triumphant. Ever,

H. Cockburn.

Saturday.

Huzza—Huzza—Huzza.

Sir George is kicked out!!!—about seventy of a majority against him.

A most important victory. Ever,

H. Cockburn.

From J. N. Fazakerley, M.P.

Stoodley, Bampton, Devon, 27th December, 1832.

My dear Kennedy,

First let me condole with you on the defeat of Ord. I feel it as a great calamity in the loss of his

society, for there was scarcely any one, while the debate went on, with whom I felt myself so generally agreeing, and though he took no active part, yet his excellent sense, and temper, and good judgment about all belonging to the business of the House will be much missed. And then to have all this replaced by his cousin Bell. This and the Essex disaster are the great blots in the county elections.

I have heard from Abercromby, and I am curious to know whether Sutton's election for Cambridge will make any difference in the question of the Speakership. If Sutton liked it, his re-election might be an easy way out of the difficulties we were speaking of.

Pray when you have a moment's leisure let me know what is thought of the returns at head quarters, and how you reckon numbers? I suppose we must class them as Whigs, Radicals, and Conservatives. It seems to me—who however am a bad judge of names—that we shall have a vast majority in England and Scotland, and I hope not a very unmanageable one. This however in these times will depend on the conduct of Government. In Ireland I suppose the case is as bad as possible. When the Irish, Tories, and Radicals all join, as they will in some cases, against us, shall we have enough to beat them with?

Pray let me hear what Wood and the wise people

say, and allow me to wish you joy of the surrender of Antwerp, and of Sir George Clerk.

Ever most truly yours,

J. N. Fazakerley.

From Henry Cockburn, Solicitor General.

Edinburgh, 2nd January, 1833.

My dear Kennedy,

I have sent a packet by this day's mail to Richardson for you. It contains the draft of an act for Sheriffs' Circuits, with the schedules, and a separate sheet of explanatory notes. As the Clerks' account of themselves may be useful, I also send their last returns to the Court of Session.

I send the packet to Richardson, because as you must have a solicitor, it is right that he should begin to charge the public at once, instead of making the carriage be paid by you or by me. But if you don't like this, say so.

Having explained myself fully in the notes, I need say no more till I hear from you.

Do observe and remember *what I am now going to say.*

The Town Council, or the College Building Commissioners have applied, or are going to apply, to Government for their last instalment, (about £10,000) for finishing the College. They must get it one day

or other. But *observe* that some damnable underhand influence has, *in spite of a resolution of the Senatus*, expelled from the college all the debating Societies except the Speculative, and perhaps one or two more. Literary societies of students which have met academically for thirty and even fifty years, are now in taverns. The lads have put their case into my hands. I have done everything and convinced everybody, except some reptile of the Town Council, through whom the atrocity still endures.

Now I have told the Provost plainly that you, Jeffrey, Murray, Palmerston, Lansdowne, and Brougham, were all educated in Societies, and that not one rap shall he get till *permanent* accommodation be made for these institutions, and I have proclaimed this everywhere where it could touch.

Now I rely on your not letting the dogs get their grant *till they satisfy us here* on this point. And even if you don't mean to give them anything, don't say so at first, but ask them if the Societies be back, and *secure in keeping there.*

I am more anxious about this than ever I was about the Reform Bill. What else should a Rector be ?

I was vexed to find on coming home that you were gone. But I was obliged to be at Glasgow, where I had some hours of my Professors, chiefly that model ———.

Do you attend the *burials* of your electors? Murray does. Ever,

H. Cockburn.

6th January, 1833.

My dear Kennedy,

Maitland is anxious that I should let you know that a memorial which is to be laid before the Treasury on behalf of an ancient Kirkcudbright lady, who has been very awkwardly thrown out of the office of post mistress there, comes from his father, who is her friend and patron. I am not aware how this fact is to affect the case; but he wishing it, I state it.

The old lady has been rather cruelly used, I think. For since she explained the arrangement distinctly to the Lord Advocate, and it was merely *he* who failed to make it known at head quarters, I can't help thinking that it was hard to punish *her* in the way that has been done. But all this is settled, and I am afraid that she's in a bad way.

Hope Vere petitions. Ever,

H. Cockburn.

From Francis Jeffrey, M.P., Lord Advocate.

Edinburgh, 7th January, 1833.

My dear Kennedy,

I now send you our summary *of Burgh Reform*, which, in so far as brevity and simplicity are concerned, I hope will suit you.

We must however do something for the considerable towns which are *not* Royal Burghs, and I beg you to take their case into consideration. There is much clamour and urgency in that quarter.

I cannot avoid telling you thus early that the man from whom I apprehend most trouble and vexation in Parliament is ——————, who is so fearfully determined to signalise himself as a legislator, that I foresee no other Scotch member can look for a moment's peace. He has schemes for reforming the law, the conveyancing, the jails, manufactures, and clergy, that would occupy a whole Parliament for a whole year, and is besides hatching some gigantic plan for creating ——— into an equality with ——— which will necessarily give plague enough to the unfortunate members for the latter place.

I wish you would give the Government some notion of his nimious diligence, for if they once give him the slightest encouragement, it is all over with us. He has rather more than enough of the Chancellor's ear through James Brougham, and is so indefatigably active, that I tremble to think of the work he will give us.

I hope there is no real discord among ministers. But it will not do either to have such subordinates as Poulet Thompson and Macaulay against them, or to be deserted by them at the opening of such a campaign as is before us. Ever yours,

F. Jeffrey.

Have you any extra privilege of franking in your new place? I enclose this to Wood in case you have not.

From Viscount Althorp, M.P., Chancellor of the Exchequer.

Downing Street, January 8th, 1833.

Sir,

Parliament will meet on the 29th instant, and immediately proceed to the election of the Speaker; the other business of the Session will not however commence till the beginning of the following week.

I have taken the liberty to give you this information and at the same time beg leave to request your early attendance, as matters of importance must be brought under the consideration of the House at the commencement of the Session.

Believe me, yours most sincerely,

Althorp.

From Henry Cockburn.

11th January, 1833.

My dear Kennedy,

Our report about Burgh Reform was sent off at last, to Earl Grey, last Sunday. It is so very general that it literally recommends *nothing*, beyond the principle that magistrates should be elected by burgesses and £10 occupiers. There will be a good

many details to settle hereafter, on which we have had almost no talk, because nothing can be done till the general principle be fixed.

Get the subject put into the Royal Speech by all means. It is right in itself and will be popular here.

The Town Council seem at present inclined to close their municipal career by an act as worthy as the one by which, in their election of R. A. Dundas, they closed their political reign. They seem likely to elect a lad, called Forbes, to be Playfair's successor,* instead of Brewster! Brewster being a reformer; Forbes a son of that clan here. Some of them crow that they do it because it is the last job they will ever have the power of doing. Ever,

H. Cockburn.

The Provost says that the Chancellor last summer promised him the College grant. But he had no answer to my question whether he had defined what it was for? Build the College certainly; but a Hall for Societies is a part of it.

* The appointment, as is well known, turned out a remarkably good one. But the feeling here expressed was that generally entertained at the time, and was perhaps justified by the fact that Professor (afterwards Principal) Forbes was then only in his twenty-second year, and was of course an utterly untried man.

From Francis Jeffrey, M.P.

Edinburgh, 14th January, 1833.

My dear Kennedy,

I think you must have heard of an old reformer (or Radical perhaps) of 1793 of the name of *Moffat*, for whom John Allen, the Hollands, and Abercromby interest themselves. He is very poor, and not in the first order of respectability, though entitled to credit for his manful adherence to good principles, in bad times. And having taken some lead in our late canvass, I am very much disposed to befriend him.

There is (or was lately) an office *of Inspector of Stamps* for Scotland, with a salary of about £100, and some travelling allowances, which became vacant some months ago by the death of a person of the name of Macbean, and has not yet been filled up, though the duty is done *ad interim* by a man called Carden.

Now Moffat wants this office, and I have no doubt is fit enough for it. I have a sort of recollection of having applied for it for him before, and having been told in answer that it was under consideration to suppress it. However the duty is still going on, and I am urged to push his pretensions. He assures me that Abercromby not only supports these, but is of opinion that the office cannot be dispensed with. But you will know better, or can easily learn. Ever yours,

F. Jeffrey.

From Henry Cockburn.

18th January, 1833.

My dear Kennedy,

You have got Maitland's paper I presume by this time.

The first move in the Burgh Reform should clearly be *merely* the correction of the absurdity in the mode of election. But there are difficult questions after this. Particularly the *Constitutions* of Town Councils, which in general are absurd,—the expediency of giving charters to new-risen towns; and the propriety of taking away charters from towns worn out.

Clearly put Scotland into the King's speech; especially with reference to its recent political emancipation, and its to be reformed Royal Burghs. Nothing will do more good in this country.

I have long been clear, and have long said, that Procurators Fiscal should be named by the Crown. I mean the Sheriff ones. Those before magistrates and justices are not worth minding; especially as by confining the payments by the public to the former, the latter are in reality little but names. The Crown, as the General Accuser, ought to name its local Lord Advocates; and the present system of letting them be named by the Sheriff, *i.e.* the judge—is peculiarly absurd, even where they appoint right men; but they often appoint wrong ones. They must be named during pleasure (as they are now), but it ought to be understood most distinctly that it is not a political office,

and that they are not to be removed or appointed, on party considerations.

Many people will hold that their not being paid as they work, is inconsistent with their being duly active. This would apply to every other public officer. They should be paid by salary. But it would be difficult to fix its amount in different places; at least without minute enquiry, and perhaps with a power given to the Secretary of State to increase or lower it within a given range.

As to the County rate,—it may be forced upon us, but at present I am staggered by it. I not only dread its amount, considering the poverty of the country, but the unpopularity which it would bring upon us, and its consequences on our system of prosecution and of trial. We may possibly make machinery to manage it; but we cannot make that *public interest in its management* which exists in England, where the local jurisdictions have a great mass of important public business, connected with it, to do; and where they have prosecutions, trials, imprisonments, &c. very much in their own hands. I have no doubt that it would be better and more cheaply done for them by a local or general public prosecutor; but *would they think so?* I don't see the body in Scotland by whom the rate is to be managed. Are the justices or the heritors, or the rate payers, to meet, and to control the criminal accounts? If so, the public prosecutor

is their servant. If he is to do his duty independently of them, and to get his accounts taxed elsewhere, would not this give rise to additional jealousy and discontent? I am not obstinate in my doubts; but don't let us admit the principle of a county rate, *for the purposes of penal justice*, without being sure how it touches other things. If there was a general election, and it was proposed to introduce this tax, I doubt if we would return one member.

Richardson should clearly draw the Burgh Reform, and all such bills. To other people that work is absolute torture, and ill done.

The Board of Trustees I know very little about, in detail. I have little or no doubt that they were once very useful,—that they have since in most points become commercially useless, and that a case for abolition could easily be made out. *But* they are, and have for years been, immensely useful in encouraging the arts; which have made no disgraceful progress—and deserve every support. It is the only institution in the whole country from which the Fine Arts,—or the arts of ornamental manufacture—derive any aid. On this ground I think that it ought to be spared. Its destruction would be very unpopular, even with men not averse in general to the free use of the economical hatchet. Its waste is not great, and it is not connected with politics. If you have any better *Scotch literary or ornamental* purpose to which to

apply its funds, the case may be different. But I should be very sorry to see them taken away merely that their drop may fall into the common vulgar ocean.

All these matters are immaterial, compared to the obviously coming crisis of the Scotch Church ; neither the poverty nor the supposed popularity of which can save it from discussion,—perhaps from concussion. You will have Patronage debated in your House this Session; a question which involves nearly the whole future history and fate of the Church, established or not. I can find nobody with any rational definite views as to the course that ought to be pursued, or the tone that ought to be taken. Almost all the elections, all over the country depend upon the Dissenters, whose aims cannot be doubted. Then there are thousands of our own best friends who insist on patronage being put down, but no two of whom agree as to what is to be put up, nor as to this being all. Then there are as many, equally well disposed, who are turned into enemies at once by the idea of touching patronage. How we are to deal with these discordant elements, I don't know. I am trying to get a Divan held of judicious church friends, such as Moncrieff, before Jeffrey goes to London. A short while ago, some easy measure to check the *abuse* of patronage might have done; but I doubt if it will do now. That case of Swinton has

done us more harm than the whole tribe of Marjoribanks, in all their generations, will do us good.

Ever,

H. Cockburn.

28th January, 1833.

My dear Kennedy,

I have not seen Jeffrey to-day ; so I don't know what letters he has got from London. But yesterday he had got no instructions to prepare any Burgh Reform Bill. Indeed his information about the designs of Government on that subject make it impossible that he should. He leaves this the day after to-morrow and is to be in London on Monday. So that it must be all settled there with himself personally. The members for all the towns returning members, not Royal Burghs, will be urgent for magistracies. They should have them; but I am not so clear whether this should form a part of the Royal Burgh reform. There is a great clamour for extending the reform even to smaller towns—such as Dalkeith, &c. I see no use in this; especially if the General Police Bill passes. It is a pity that several of these nasty worn-out burghs, such as Inverury, &c. could not be quashed. It is nearly impossible to deal with them. They have no constituencies.

I took no charge of transmitting the opinion about the Exchequer warrant, and never heard how it had

gone, till Jardine told me to-day, that it had come back to him.

I am getting information about the Board of Trustees,—about which let no rash resolution be come to.

We are sorely troubled here by being made to believe that Forbes Blair means to petition against Abercromby's return. I trust he is safe.

It seems to me that there is a general expectation that Scotland is to be honoured by a place in the King's speech. If such a feeling really does exist, it is a proof how much more important the people feel themselves now that they are freed than formerly, and it ought not to be disregarded.

There are some worthy people whose elevation to a higher sphere of existence would be very convenient. Joseph Hume is one. He with his radicals—and Dan with his repealers, will prove very troublesome. I cannot say that I am much afraid of the Tories supporting us. I am far more so of their joining the radicals to destroy us. They would, to a certainty, form such a junction, though to their own disgrace and to the ruin of the country,—if it could effect this object.

There is to be another public meeting here, to-morrow, of the Anti-patronage people. That question terrifies me; particularly in reference to future elections. Nearly a half of Sir J. Dalrymple's voters are dissenters.

There are doubts in Exchequer here, about some of the Sheriff's election charges. Jeffrey and I have made a report on the subject to the Treasury,—at least I suppose it is to them. I wrote it. The difficulty is that the Act does not provide *in words* for certain expenses which experience has shown to be unavoidable. But being unavoidable—and honestly, and economically incurred, I am clear that they must be paid somehow. Ever,

H. Cockburn.

From John Allen, M.D.

Old Burlington Street, Friday, 1st February.

Dear Mr Kennedy,

The best use I can make of the enclosed is to send it to you. The writer is a Mr. Moffat at Edinburgh, one of the sufferers in 1793 and 1794. You can best judge whether the statement he makes be correct, and if so, the Treasury must decide whether they are to be governed by their underlings, or their underlings governed by them.

Yours faithfully,

John Allen.

From Lord King.

Ockham, Friday.

Dear Kennedy,

As I suppose Saturdays will be days of leisure even in the reformed Parliament, I write to beg that

you and Mrs. Kennedy will give us the pleasure of seeing you at dinner on the 9th.

We go to town to-morrow, and I am impatient for the great day, which I suppose will be Tuesday, when the King's speech ought to be as full as a President's message to *his masters* of Congress.

Yours most truly,

KING.

From Henry Cockburn.

22nd February, 1833.

MY DEAR KENNEDY,

I have had a hard fight for it, but your intimation, that the College Grant would be withheld, has enabled me to be victorious, and I believe that the Societies will soon be restored. The Provost (the best I have almost ever known) has written to London begging that the interdict may now be removed. I have told him that I should state to you my belief that it soon may, but that, as the Societies are not yet actually restored, it must be kept on till they be. However, as I confidently expect their actual restoration soon, you are safe in making any arrangements you may have to make, on the assumption that this obstacle is removed. Being removed, I sincerely trust you will give the grant, *but on the condition that the Societies' accommodation is to be permanent.* The

College is a mass of rubbish, and it must be finished one day, and you had better have the merit and the popularity of it.

I am feverish about the Burghs and the Church. The former if confined simply to destroying self-election is plain enough. But I fear that it will not be allowed to be confined to this, and other points, though, not perhaps full of much difficulty, are full of disputable detail. The difficult points are our new Burghs, our constitutions, our boundaries, and our small burghs. There is a certain personage too (*but this is only to yourself*) who sits on a sack of wool, who has projects which make me stare and shudder.

You have quieted the Church, by the promise of a Government measure. It is not a bad measure (*yourself again*) as I last saw it; but a little change may make it excite and not quiet.

Tell me how you all feel. We here—even Tories—who all hate O'Connell, approve of everything you have been doing. There are some who are alarmed about the Church; but few and wild. On the whole, in the provinces, we are felt as more natural and firm. Let us improve the season by doing enough, and not too much. Burgh Reform, Patronage, Entails, Sheriffs' circuits, Seisins, and one or two local reliefs, are surely enough for Scotland for one session.

Ever,

H. Cockburn.

Edinburgh, 6th March, 1833.

My dear Kennedy,

I have nothing to say, except that I am longing for a sight of your legible hand. If these Irish members have not killed you all, let me see it, at your leisure.

The opinion, I think, of all rational men in our provinces is strongly in favour of your coercion; that of all radicals, against it. But then theirs is mere raving. They harangue about liberty, but never think of murder. The Union had a meeting here last night, a blackguard and contemptible convocation. The Greek Knight has signalised himself at Glasgow by countenancing and exciting the lowest possible rabble by the most disreputable intemperance and abuse. This is he whose reply to all remark is, that he is the favourite at Holland House. How strange it seems to me that sensible Whigs should be so far gulled by words as to doubt the principle of that coercion which is necessary for bare protection. Yet in some instances they do so.

What are your Entail plans? Since you wrote to me about the Trustees, I have endeavoured to understand something of the subject. The only conclusion I have come to is that, however modified or controlled, they ought not to be suppressed; chiefly because they might make Scotland a great school of art.

Are we to have County Rates? If so, take special

care of certain collateral matters of far greater importance than these rates.

I tremble for certain parts of Burgh Reform, and Church Patronage. It is not time to speak of them yet, because the views of Government have not been fully disclosed, but I am not easy. (This however to yourself.)

Are you to proceed with Sheriff Circuits ? Lord, how mad people are. John Douglas and his provincial bar, have actually a bill printed and ready for abolishing the Court of Session, and throwing the whole law of the country into the hands of the Sheriffs. How would you like your right to Dalquharran to depend on a Bell ? And the members for Greenock and Dundee will support this.

The Societies are restored. So do give the College its grant. And allot an extra thousand to humour me in a bronze statue of old Napier in the centre of the quadrangle. Your Treasury you know is full of money!

Remember me to Abercromby when you see him. The Town Council's giving in about the Societies has saved him a petition from all the students, which was in preparation.

I don't know whether you take any charge of College affairs. If you do, look to Glasgow, where there is a proposal to institute a new profesorship of medicine, and where there is an actual vacancy of a professorship

of Materia Medica. All that I am anxious about is that invitation should be given to candidates, and that the best man should be taken. In Glasgow they never dream of looking beyond the Gallowgate. All the local authorities are dead sure to make a run for some Glasgow connection, and stare at the idea of trying to let in fair competition. This they are doing now. There is nothing in which the character of Government is more at stake than in these appointments.

Ever,

H. Cockburn.

8th March, 1833.

My dear Kennedy,

We have so often plotted for Scotland, and occasionally with such success, that I am induced to suggest to you a matter every way worthy—a matter recommended by being simple, necessary, easy, new, and popular. Nothing would do you, or the public, more good.

It is to introduce the system of parochial schools into *Towns;* where it does not at present prevail and where they are far more wanted than in rural parishes. Nearly all the parochial apparatus might be copied. The real property should be obliged to pay; the tax to be collected with other taxes, so that a penny might be levied cheaply; the payers to elect the schoolmaster; the superintendence of the Presbytery to remain as it

is; the number of schools not to be limited to one for each parish, but to one for each thousand, or some other number of the people.

All this is quite simple ; and I don't believe that there would be any serious objection even to the assessment. It could easily be shown to be cheaper to educate the poor, than to punish or restrain their ignorance. It would contribute much to your popularity, and to that of Government, and is absolutely necessary in these times.

I have been discussing this matter with two or three, who take an interest in such subjects, for months, and it is forced upon me now by a letter which I have from Chalmers, enclosing one to him from Aberdeen,—both urging this measure.

What do you say ?

Pray does Slaney's bill about walks and recreation ground for the people apply to Scotland, and with reference to us, is it right? We, who have no pathways, need it more than the English do.

A good division. But your wings will be a little clipt, I fear, in Committee.

Be so good as to bid your servant give the enclosed to the Postman. Ever,

H. Cockburn.

Ayton presided over a meeting of six or eight hundred radicals and Irish here last night to petition against checking murder. It seems to have been a

poor disorderly affair. They only censured their own members, by censuring all Scotch ones who vote right.

26th March, 1833.

My dear Kennedy,

1. I think it likely that some Sheriffs may propose to you to allow the *Sheriffs* to send £10 causes to the Small Debt Court. *Resist this.* If the pursuer attests, by not bringing his cause into that Court, that it is, in his opinion, unfit for it; and if the defender, by not moving to have it sent there, attests the same thing, why the devil should Mr. Sheriff have the power of sending it there? Their meaning is that they should never be troubled with £10 cases unless they choose.

2. Might not Haddington, Selkirk, Wigton, (and perhaps Linlithgow) be omitted from Schedule A?

3. In addition to the account of fees, "*received and taken*," (page 3, line 10) say "*or chargeable.*" The dogs always try to escape by saying that the litigants were too poor to pay—and then they make them pay after all.

I understand that a rebellion is already preparing by the Clerks against the exchequering them for £25 per cent.

It is an excellent measure.

I this day sent a review to Napier on a legal sub-

ject,—which Jeffrey must look to, but on which I shall require your help. It is purely legal.

I am alarmed about the Burgh Bill—alarmed for the *over*-popularity of Town Councils. The ten pounders do very well for Members of Parliament, because they are looked to—great interests being involved. But who cares for the Bailies—or will trouble himself about them? Hence my fear is that active and low civic agitators will have the say. It is my confident expectation. We can't raise the franchise, that's clear. Therefore I am particularly anxious, 1st. to keep the Councillors in office as long as possible,—for being once in, they will have the official tendency. 2nd. And especially, to have a high qualification to entitle a candidate to be elected. We don't let a man be a *Commissioner of Police* who does not occupy £30 a year. It should be £50 *at the least* for a Councillor.

I have stated this to Jeffrey:—but he, from his situation, may dislike to urge what may make Government less popular.

For God's sake resist—and to the death—all crazy schemes—by Wallace or others—about Scotch judicial changes. Our periodical press happens to be chiefly in the hands of Procurators, and therefore it is the vomitory of all sorts of speculative legal dirt. People not aware of this fact, mistake the selfish projects of these crafty attorneys for the public opinion. Your

Exchequer bill will greatly purify our land. Don't be too severe on my friend the Fiscal Knight. Remember his old beginning, and his old end. Corruption the object, jobbing the means. This being the case, his purity amazes me. What other man would have passed so cleanly through such a puddle.

John Taylor says that last Sunday you seemed exhausted. Very foolish. Have not you the House ten hours a-day?—and where may there be profounder repose? I saw Denman heave in slumber for five or six hours at a stretch. The gallery—with a great coat pillow—is a healthy place. What an orator Gillon has become!

There is a ray of comfort in what you say about the College. Ever,

H. Cockburn.

I see that Hume wants you to raise the £10 in the Small Debt Bill. I think this wrong. £10 is a man's all often, and Sheriff's justice is sometimes not satisfactory to a losing party or his friends. You will find that if the sum be raised, the next push will be to allow country writers to act. If it be raised at all, it ought only to be *on the consent of both parties*. But at first it had better not. H. C.

3rd April, 1833.

My dear Kennedy,

The Sheriffs have sent me notes upon the bill; which I have sent to Richardson, with my corrections on the margin.

The *Dean* has written me saying that he greatly disapproves, and means to get his objections stated to the Chancellor privately, unless the Advocate or I take an interest in the bill, and publicly in the Lords if we do. His objection is, or seems to be—that all these summary decisions are bad, and that this which increases them must of course be worse.

I have answered him that you introduced the bill, because it was your scheme, and that I took the deepest interest in it, and had assisted in it all along, and that I held the fact of the extent to which the people had resorted to these courts at the County town a proof that they did not think them bad, and that if good there, the good should plainly be taken nearer people's doors.

So I suppose we shall have Haddington (I hope not Rosebery) let off in the Lords. I have invited him to state his objections fully, in writing to me, which probably he will do.

There is a considerable alarm at the rise to £10. It is not material whether it be £10 or £8; though I prefer £10, but don't try to make it higher. It

would end in the Sheriffs defeating it by letting in Procurators in every case; and the feeling is general against it.

You may leave *Nairn* out of the Schedule. Not Elgin—for these two are quite separate shires. There is no need of it in Nairn whatever.

The Clerks are in a state of mutiny. I suspect that the £25 per cent. deposit won't do. Could we not—1st. Raise the fees in the cases above £8. 6*s* 8*d*, and 2nd. Lower the *officers* fees, and proportionally *increase* the Clerks, and make this increase be exchequered. The Officer, by the circuits bringing things nearer him, has less to do for his money. But, in truth, I fear even this won't do, and that the whole scheme will be endangered by our trying to throw the expense upon the Clerks' present fees. However, don't desert the measure—which, in spite of our learned Dean, is an excellent one.

Should you not prepare the Chancellor for the said Dean's objections—public or private? I should think that his own County Courts' Bill decided him as to ours; except as to our £10, which he will be for making £20, which by all means resist.

Can you not dispose of Kelly and a few other Scotch Members in the same way with Kinloch?

Ever,

H. Cockburn.

I hope you take the Advocate along with you, or

at least to the extent of not forcing him to say, if the Dean or the Sheriffs write to him, that he knows nothing about it.

16th April, 1833.

My dear Kennedy,

I don't know what places in Renfrewshire you propose putting into Schedule A. But I am told that in point of distance from Paisley and from Greenock, at each of which there is a resident Sheriff, the principal towns stand thus:

Pollockshaws	5	miles from Paisley.
Neilston	4	„ „
Kilbarchan	3	„ „
Renfrew	2	„ „
Port Glasgow	3	miles from Greenock.
Kilmalcolm	5	„ „
Innerkip	5	„ „

It is said there are no other populous places,—except Lochwinnoch, which is nine or ten miles from Paisley. But it is small and quiet, and scarcely worthy of a circuit. John Cuninghame, who knows the county, says that these distances are correct.

I hope you are all the better of this mouthful of fresh air which the Holidays have given you. If you have not walked four, or ridden ten miles, and slept twelve hours, a day, you have been unpatriotically employed.

What a thief that Editor of the —— is. These fellows talk exactly as if the King and the Lords were nothing, and as if everything depended on the mere will of the ministers. Our risk was always foreseen to consist in our doing too little, or too much. Except for the temporary convenience of humouring wild idiots, the former which we seem to be suffering from is the safest error. I wish I saw the position of the Government well expounded in a short clear popular pamphlet. Opposed by Radicals, Tories, Irish, and all those who suffer from abuse-extinguishing reforms, it has nothing but the general sense of the country to depend upon; and this sense it can, and ought, only to preserve by sound, cautious, measures; and yet its only danger seems to lie in the impatience of these very friends, who won't submit, even in order to maintain the only good government the times admit of, to evils which, but for this government, they would have groaned under for ever. An invincible appeal might be made to a mass of reason quite sufficient to ballast the vessel. What's become of the dexterous and well-informed hand that wrote the efficacious little things of last year?

I believe I have often spoken to you about our jails. It is impossible that they can be tolerated much longer. I hope that it is understood that all these things are not to be thrown as matters of course upon the Advocate, and that your department is not confined to matters fiscal. I am more and more convinced

every day, or rather hour, that Scotland never can be managed without some known and responsible person acting, no matter under what name, as Secretary, *different from the Advocate*, not only because *no* Lord Advocate *can* conduct everything, but because, even if he could, he ought not to be allowed, or required to do so.

Alas! our poor bankrupt city! It is a great misfortune, not merely to creditors, but in reference to all public proprieties. Should not the two members pay? The Provost is going up to beg and weep. Be gracious to him. He seems to me to be by far the best Provost we have had for a very long while.—I have got the Societies fairly back into better rooms than ever.

No want of Radicalism at Dundee. If the newspapers be correct Parnell is even against a standing army,—to say nothing of a £5 franchise! Ever,

H. Cockburn.

24th April, 1833.

My dear Kennedy,

Fullerton, a good and well disposed judge, tells me that there are some things in your entail bill which won't work. What they are I don't know. But instead of annoying you by letters, I have bid him explain himself to Rutherfurd, who will be in London as soon as this letter, and he can talk with you. Ever,

H. Cockburn.

The Road Trustees here are planning what I at present hold to be a damnable project, on a matter far more important than your Reform Bill,—the decoration and recreation of Edinburgh. They threaten to connect Musselburgh with Edinburgh *by a new highway, lined of course by a wall on each side, round Arthur's seat from Duddingstone past the Basaltic columns;* destroying the privacy of the walk and scene, cutting the loch off from the hill, creating a nuisance of coal carts, &c. Unless the *people* speak out, I have nothing to say. But I suspect that they will speak out, and hence my reason for mentioning it to you. Because I hold that Lord Haddington, by a late decision of the House of Lords, has no right, as keeper, to give up any part of the soil to third parties, and that therefore the power of obstruction lies with the advisers of the king, who, independently of the legal right, can stop this abuse of his property.

Now all that I have to beg is that lest any attempt should be made to smuggle out a secret grant, or consent, you will lodge such a caveat as may prevent it. Sir J. Craig, Sir John Dalrymple, Sir Thomas Lauder, and many good Whigs are at the bottom of it. But, 1. They are all Trustees, and lovers of roads. 2. Many of them interested.

I may be wrong, but I don't at present think so; and if I be right I am determined that our hill shall only be spoiled at the odium of those who do it, not by the apathy of the people.

From Francis Jeffrey, Lord Advocate.

35, Charles Street, Monday 29th.

My dear Kennedy,

I have asked Colquhoun to postpone his little Patronage Bill and motion. But if he should not, I must beg you to take some charge. You are aware that, *by the law as it stands*, the Patronages which he wants to transfer to courts civil and ecclesiastical, are vested in the Patron of the original parishes, so that it is a mere experiment *in parvo* of the *abolition of patronage*, pending the larger discussion.

I wish for the same reason that Joseph Hume would postpone his to-morrow's motions about the Privy Seal and Lord Register and Keeper of Signet.

I sent my report (and documents), as to the former to Stewart at the Treasury on the 24th. As to the latter,—according to my construction of the Act 57 Geo. III., c. 64, the salaries as they are paid are not challengeable from the accident of the Lord Register's becoming vacant first, or before the Keeper of Signet. *The principle* of the Act may seem against this, but there is no getting over the words, of the eighth section especially.

The key to the whole is that the office of Lord Register is to be kept up—only on a reduced salary of £1200—and under this 8th section I take it to be clear that *a different person* from the existing Keeper of the Signet might have been appointed to it, with

that salary, *in which case* it would not have been doubted that both salaries would have continued till the death of the Keeper. By appointing the Keeper, Register, *the offices* were indeed consolidated, exactly as if the *Keeper* had died first, but there is nothing in the Act which imports that one of the salaries should cease on the occurrence of *such* an union. If *another* Register might have been appointed we have so done by appointing the existing Keeper to that office, but the effect as to salaries must be the same in both cases. If anything else had been contemplated the 8th section would at least have made it compulsory to make the Keeper Register, if the former died first. But it has not done this.

You will gather from all this that I am not in a working state yet. I must go for two or three days to the country—and shall set off before five to *Stanmore*—where anything addressed to me at the Royal Hotel will come. If sent here before 3 o'clock by coach—after by post.

I have been doing all I can to rouse the mortifying indifference of the Government as to our Burgh Bills as you have probably heard, and shall send you copies of my memoranda of which you will make all the use you can—bettered by your own suggestions.

Ever yours,

F. Jeffrey.

From Lord Holland.

Saturday, Holland House.

Dear Mr Kennedy,

Do not forget to give me a short note about the Exchequer Bill before Thursday next.

I should like too, to have ten minutes conversation with you about other Scotch matters. Yours,

Vassall Holland.

From Sir James Graham.

[Private.] Admiralty, 11th May, 1833.

My dear Kennedy,

I will call at the Treasury at half-past one to-day for the purpose of conversing with you on the Leith Dock affair. Yours very truly,

J. R. G. Graham.

From Francis Jeffrey.

35, Charles Street, Saturday.

My dear Kennedy,

I called to say that the Chancellor had consented to add Bannerman, Oswald, Murray and Hallyburton, to our meeting at one to-morrow, though he wishes these only to state their facts and opinions and then to leave us, with Abercromby, to consult with him on the result. Ever yours,

F. Jeffrey.

From the Earl of Rosslyn.

St. James' Square, June 11th, 1833.

My dear Kennedy,

I went to the Vote office at half-past six to-day and learned that the reprint of your Bill had not arrived, and I therefore presume that it will be more convenient for the reason you stated to postpone our meeting to some other day, when I shall be happy to meet you and Mr. Richardson.

If it makes any difference to you and him, whose time is more occupied than mine, I can meet you at his house or at the Treasury. Yours faithfully,

Rosslyn.

From Henry Cockburn.

17th June, 1833.

My dear Kennedy,

As we are understood to be on the edge of a crisis, I beg you to recollect, at your leisure, if you ever have any, that nothing is more agreeable or useful to us Provincials than to have some notion of the feelings and views of sound men at head-quarters. Do give me some facts and speculations.

It is very plain that if we be ousted, the battle will lie between the Tories and the Radicals; and that, unless taxation and distress can be dispensed with, the latter must ultimately prevail. If to be sure the Captain will recall trade, and wipe off the national

debt, I don't believe that the people will disturb him much on abstract principles. But while they have to pay, he may depend upon it that they will only be quiet in the meantime by his conciliating them by such radical measures, as will increase their power and enable them the more surely to knock him and the system he has at heart on the head at last.

My (ignorant) wonder is why ministers go out merely because the Lords reject a measure to which they are pledged. They must redeem their pledge no doubt. But don't they do so, even in the most fastidious honour, by remaining in power and thereby promoting the measure, more than by tossing it to the dogs? To be sure those to whom the pledge was given—your House—must judge of this. But why should not the Commons *now*, before the Lords act, resolve and invite ministers *not* to retire. If I were Ebrington I would move—"That if anything "not imputable to ministers, should prevent the "Irish Church Bill from passing into a law this "Session, this House, relying on the disposition of "ministers to promote that measure, and deeply "impressed with the necessity of having this, and "other improvements conducted by a Government in "which the House and the country have confidence; "trusts that ministers will continue, if allowed, to "act as the advisers of his majesty, and will not "endanger the peace of the empire by voluntarily "retiring from office in the present crisis." If this

sentiment were agreed to triumphantly, the pledge by Government would stand redeemed, though they kept office in order to recur to the battle, instead of running after the first defeat.

But these are probably the follies of 400 miles distance. Tell me what better I am to think.

Ever,

H. Cockburn.

From T. F. Kennedy, M.P. to Viscount Althorp.

House of Commons, 21st June, 1833.

My dear Ld. A.,

I cannot express the pain with which I am compelled to say that I cannot bring myself to vote with the Government on the proposed alteration of the Temporalities Bill with reference to the 147th clause.* I shall absent myself, but this I have no right to do, and therefore I lose not a moment in begging you to place at Lord Grey's disposal my office of Lord of the Treasury.

I assure you that I separate myself, officially, from your Lordship and my other friends with a bitter pang, but with no diminution of the sincerest attachment. Ever most truly yours,

T. F. Kennedy.

* The well-known "appropriation clause," which provided that the money arising from the conversion of Bishops' leases into perpetuities, should be applied to such purposes as Parliament might hereafter appoint and direct.

From J. F. Fazakerley, M.P.

House of Commons, June 21st, 1833.

My dear Kennedy,

Graham stopped me as I was walking up the House, to say that he had received a note from you, and he begged me to write to you to say that he had torn your note, and to entreat you to take no step of any description until you had seen him. He seemed very anxious that you should accede to this request, and would have written himself but was unable to leave the House.

From myself I must beg you to see him, and to take no precipitate step. Yours most truly,

J. F. Fazakerley.

P.S.—Say nothing of your note to any one.

From Lord Althorp.

[Private.]

Downing Street, June 22nd, 1833.

My dear Kennedy,

Come to me and let me talk to you as soon as you can. I shall prove to you that you are wrong in what you have done, and still more wrong in what you intend to do. Yours most truly,

Althorp.

From Viscount Melbourne.

Whitehall, July 2nd, 1833.

My dear Kennedy,

I understand that you and Stewart Mackenzie have undertaken the management of this Committee, which has been appointed upon the petition presented by Cobbett against the policeman Popey.* I should wish to have some conversation with you before the Committee meets. It will be of great importance to confine the enquiry strictly to the allegations of the Petition;—ask Althorp for the paper which I gave him, and also for the answers of Popey to the charges, which I also sent to him. Yours faithfully,

Melbourne.

Whitehall, July 4th, 1833.

My dear Kennedy,

I think you did quite for the best in proposing Alderman Wood for chairman. I suppose you got the papers from Althorp. If not I can send you a copy.

I send you a supplemental report which I required, because Popey said that though he had done nothing wrong at any of the meetings to which he had been sent, there had been other meetings at which he had

* A petition from the Camberwell and Walworth Political Union, alleging that the police of the metropolis were systematically employed as spies, and charging a policeman Popey with exciting the members of the Union to adopt violent measures with a view of bringing them within the power of the law.

not conducted himself with so much prudence. It does not appear that he has done anything objectionable upon these occasions, supposing this statement to be true. I will send you any circumstances respecting the political unions which appear to me to be material. You will judge whether it is discreet or not to go much into this subject. If the Committee shew a disposition to confine themselves strictly to the object of their enquiry it will be best to fall in with and encourage this disposition—but of all this you must judge at the time. Yours faithfully,

MELBOURNE.

I have desired Mr. Mayne to put himself into communication with you.

I gave Mr. M. a note of introduction to you.

Whitehall, July 6th, 1833.

DEAR KENNEDY,

Can you let us see a copy of the evidence either to-morrow or Monday. By what you said yesterday, it seems to be more a charge of swindling against Popey, carried on under the mask of agreement in political violence, than anything else—much the same sort of cheat that Cobbett practised upon Burdett. Yours faithfully,

MELBOURNE.

From Henry Cockburn.

9th July, 1833.

My dear Kennedy,

I don't know exactly on what his alarm rests, but John Taylor is alarmed lest one of the solicitors of stamps or of taxes be abolished, and lest it be he who is to fall. It is perhaps wrong in me to interfere even by a word, in such a matter, but my long experience of Taylor makes it almost a duty to attest his merits,—particularly in the revenue. I don't mean to disparage Mr. Richards, but nobody can know the two men, or their official reputation here, and doubt which is the best public officer. He refrains writing to you solely from a feeling of delicacy; and no man ever talked with more sense and disinterested candour.

Your Session is drawing to a close. A memorable one has it been, and on almost every possible account. No Government ever survived such difficulties. Perils by Kings, perils by Peers, perils by the people, perils by measures, perils by too much and by too little, perils by foes—I am sorry to say perils by friends. I wish Parliament were up, and some leisure afforded for cooling and for planning. We can scarcely expect another session so full of such difficult work. Our debt and consequent taxation, our pauperism, and the rising state of the Radical party, must continue dangerous spots on our system;

but good measures and a strong government would prevent them all from being fatal. A slight and judicious approach of the Whigs to the better Radicals would give the Government strength without increasing the hostility—already complete—of the Tories. Our great danger is in a government which from old professions and from present duty, is expected to be absolutely perfect in whatever it does, and therefore cannot be so supported either by popular patriots, or even by genuine friends, as to make any occasional errors immaterial. The very obstruction given by old Whig associates to Whig local measures, from the ruinous influence of crazy constituencies, is symptomatic of the times, and provoking. What would not Glasgow or Leith have given five years ago for anything approaching to Burgh reform; yet now they, and other places, will rather destroy the whole cause than abate one jot of their own ungrateful extravagance.

I hope you mean to breathe Carrick air for two months this autumn. Ever,

H. Cockburn.

From Viscount Althorp.

Downing Street, 6th August, 1833.

Dear Sir,

As at this period of the Session it is very difficult to keep a sufficient number of members in the House to proceed with public business, I am very

sorry to be obliged to request that you will attend every evening from 5 o'clock, till the close of the business of the night. Yours most sincerely,

ALTHORP.

From Henry Cockburn.

Bonaly, 2nd Sept. 1833.

MY DEAR KENNEDY,

Most grateful to me is it to renew our correspondence. Of the mere prudence of firing into the Chancellor I am no judge. But, so far as I can judge, I am inclined to hold it extremely politic; as, God knows, in itself it is most just. His contempt of Scotland is personally contemptible and officially criminal, and in spite of all his taste for domineering, I have little doubt that being rode with a curb does him good, and draws him up. He is the least great of all eminent men, and I am afraid that Mackintosh's epitaph on Fox, "The *most* amiable of all great men," must be reversed in him, by substituting "least" for most. However he must be managed, and it is our duty to do so, if we can, without degrading ourselves. Your letter to him is excellent,—and, if he had candour to apply its allusions, would be very beneficial.

I rejoice that you are at last going to get a gulp of fresh air and nature. Don't let it be too short a one. I shall confer with Taylor about the Registration Keeper, whenever the matter comes before me,—for at

present I scarcely know even what it means. I trust that the said Taylor himself will survive all changes. We have no such safe and intelligent Fiscal man. Our annuity processions are very dangerous, because they are the first examples of Irish resistance in Scotland. But they are most contemptible and disgraceful; and are felt to be so by all reasonable men of all parties. In so far as the arrears are concerned—and it is about these alone that all the folly has been,—I would go on enforcing payment unsparingly, though the erection of acres of new jails was necessary. The processions have made very little impression here.

I am full of thought on your few words about Jeffrey. I anticipate a change in his department soon. May it be for the better! I admit all the defects, failures, and provocations. But Government, with all its talents, and all its principle, owns no such man. I have been in almost daily correspondence with him for the three last years, and if I wished to exhibit the purest patriotism, the most anxious zeal, the deepest views, and the most varied powers, I would publish his letters. But action, I admit, is different from speculation; and there is no wisdom which an inconvenient manner, or ill-trained habits, may not render useless. Nevertheless, the retirement of Jeffrey from the partial management of the affairs of Scotland affects me as a very impressive, and a very sad event.

I want a walk about your tile drains, brick kilns, mangle wurzel, salvias, and evergreens. Rutherfurd and I are to be at Ayr on the 19th. Whatever he may do, I mean to see you then unless you forbid me. Our business is upon the 20th; so it must either be just before or just after this. I have no idea at present that, quoad me, it can be before; from which my logic infers it must be after. Let me know if the 21st, or 22nd, or 23rd, as may be, will suit you. And if, as is most natural, you would rather be let alone, and left to enjoy your repose undisturbed, say so freely and sensibly. I am going to Inverness the day after to-morrow.

Sir William Rae of course means either that the Tories are to come in, or that Lord Bute is to rat.

I have been at Richardson's for the last three days.

Ever,

H. Cockburn.

The Dean is to be at Ayr too; and no doubt you will rush to avail yourself of the Providence which puts so much calm sense and sweet blood within your reach.

From Edward Ellice, M.P.

Invereshie, 12th September.

My dear Kennedy,

Many thanks for your kind letter. Our plans are not yet decided, and depend in some degree, both

upon letters from Howick and from Duncannon in Ireland. As soon as anything is settled, you shall hear from me, and as few things would give me greater pleasure than to spend a day with you, amongst your muttons and sheaves, I will not be turned past your door without some pressing cause.

I have heard little from any of the *authorities* since leaving town. Lord Wellesley of course is to be Lord Lieutenant, and I should think your friend the Duke of Argyle Lord Steward. They separated on the understanding that there were to be no further changes, and I am sure wisdom and prudence governed that decision. As long as the machine, with all its faults, can be kept together, there is some hope of safety. Once make the attempt to re-shuffle the cards, and the difficulties and dangers of the times come into action. The case may be different, when necessity cuts a knot, that it appears so difficult to untie. That will get the better of many jealousies, and embarrassments which an unsuccessful experiment to remodel the cabinet and to change offices must entail upon us. Still Althorp writes that things cannot remain as they are. He does not however add how they are to be altered or improved.

Our friend H. B. is a shifty one, and with all his great qualities—inspires confidence nowhere. What a mess he has made of the King's speech with his law reforms; and all for the gratification of his personal

vanity, or the maintenance of his waning popularity with the mob.

I write after a hard day's walk and having killed 21 brace of grouse—a tolerable day's work for a worn-out Treasury hack—but which does not improve his faculties or remove his horror of writing letters after dinner for a most inconvenient post.

You shall hear from me again when our plans are arranged. I have already stopped my letters, which are now directed P. O. Edinburgh.

Ever yours truly,
EDWARD ELLICE.

From Viscount Althorp.

Wiseton, September 22nd, 1833.

MY DEAR KENNEDY,

I have three bulls to dispose of; I have sold one.—First, *Alabaster*, white, calved April 19th, 1830, got by Firby dam by Yorkshireman, g. dam by Sir Peter, g. g. dam by Mr. Hutton's Bull g. g. g. dam by Cleasby. I have used this bull freely for two years and think him a good stock-getter. I ask sixty pounds for him.

Second, *Margrave*, red roan, calved April 20th, 1832, got by William dam by Satellite, g. dam by Farmer g. g. dam by George, g. g. g. dam by Chilton, g. g. g. g, dam by Irishman g. g. g. g. g. dam by B—.

This is a bull not likely to be so large as Alabaster, and a fair good animal. I ask forty-five pounds for him.

Third, *Archibald*, roan, calved June 26th, 1832. He is own brother to Alabaster. His hind-quarters are remarkably good, his handling and hair perfect, but his shoulders are rather upright. I think him likely to make a good bull,—and ask forty pounds for him.

Margrave is the sort of animal you say you want, because he will not be very large. But I think Alabaster much the best of the three and the cheapest.

I am enjoying my rest; I have had a large party with me for Doncaster races, which was very pleasant, and am now quite alone, which is equally so.

Yours most truly,

ALTHORP.

I shall sell any of these bulls if I get a customer without waiting for your answer, as I fear the prices will be too high for your principals.

From the Hon. George Lamb.

[Private.] Home Office, Tuesday, Sept. 24th, 1833.

MY DEAR KENNEDY,

I feel very glad that upon reconsidering the report upon the cases of the rioters at Ayr, I think I have found a loophole, which enables me to mitigate, or rather recommend the mitigation of the sentence to six months' imprisonment, which will let them out

very shortly, at the same time making them find securities for keeping the peace according to the sentence, on which the judges insist, and can, I conceive, be no hardship upon such peaceable unoffending rioters, as they are represented to be.

Upon this mitigation you may please yourself, for it wanted a reperusal of your civil epistle to restore my equanimity after a most bullying letter from Oswald threatening a motion in the House, and every sort of attack if we did not let off his protegés. I hope I am as little to be influenced as any man by anything but the real merits of the case, but flesh is frail, and if our minds had not been made up to mitigation before the receipt of his letter, and if yours had not been written, his application would certainly have had any effect rather than one in favour of the prisoners. I confess I never did an act of mercy so grudgingly as I have concurred in this, from the irritating reflection that he will think he has bullied us into it.

However I shall say nothing to him, but leave him to do what he likes. Yours very truly,

G. Lamb.

From Edward Ellice, M.P.

Invereshie, 30th September.

My dear Kennedy,

These equinoctial gales have fairly frightened me out of my Irish expedition,—and the appointment,

and foolish acceptance by my brother, the General, of a post in old Lord Wellesley's household, have wonderfully added to my distaste for the expedition. *This however between ourselves.*

My plan is therefore to remain another week in this country—to pay a visit to the Duchess of Bedford at the Doune to-day, to stay there till Friday, and then go to Aberdeen—from Aberdeen to Edinburgh and Howick. I shall be in Edinburgh about the 10th.

There is nothing new. Lord Holland tells the Duchess to assure me that he and Palmerston have no fear for the result of affairs in Portugal. I have the greatest; and they will not be allayed till we are relieved by the account of an Auto da Fé.

The Scots people all tell me that our friend Abercromby is growling beyond "his wont." But we shall have nothing but growling, and growlers, and be obliged by and bye all to join chorus with them.

Ever yours,

EDWARD ELLICE.

From Henry Cockburn.

21st November, 1833.

MY DEAR KENNEDY,

You know that the Crown Teinds are now managed by the Woods and Forests; and that of these Roderick Mackenzie is now agent. Founding upon this the said Roderick is attempting to oust Sands

who has for several years been agent in Teind matters. You will probably, or possibly, be applied to on the subject; and all that I wish to do is to put you on your guard as to any representations that may be made to you in favour of this scheme. Jeffrey has written fully to Lord Duncannon about it, and I concur with all that he there says against it.

If this had been December, 1830, much might have been said for turning out a Tory. But such ejections were then, and afterwards, discussed and decided against, unless they were made necessary by overt acts of rebellion. Sands has ever since been recognised as agent for this business—which he does admirably—and has never rebelled. If, notwithstanding all this it be, on public grounds, thought proper that his office should be merged in the other, let these grounds be considered and acted on; but don't let a formal change of the name officers of state into Woods and Forests, be made the occasion of taking a harsh step. Sands is no friend of mine, but I am alarmed lest vehemence drive Government into an unjust, or questionable, move. Ever,

H. Cockburn.

Edinburgh, 30th November, 1833.

My dear Kennedy,

Touching Bishops' Teinds. You know what Teinds are.—Decrees of augmentation make every Scotch Laird familiar with them.

Well the old Bishops had Teinds. That is a proportion of the fruits which belonged to the Church, came in various ways to belong officially to the Bishops. These, when Episcopacy was abolished, were given to the Crown; just as the *rents* belonging out of certain lands to Bishops were.

All this is plain enough. But I can give you no details beyond what follows.

These Teinds have, since the revolution, been managed by the Barons; but are now in the hands of the Woods and Forests. Ever since they became Royal, they have, to a very great extent, been always given away for public, or political, purposes; such as to Colleges, Bursaries, Clergymen, &c. They—that is, the lands, or persons, from whom the Teinds are exigible, are scattered over the whole country: though more thickly in some places than in others. *If they were all unappropriated* I understand that they might amount to from £3000 to £6000 yearly; but their value varies with the value of grain. But the appropriations don't leave much above a tythe of these sums now free;—probably not on an average above £500 yearly. These allocations are mostly old, and many of them permanent. The College of Glasgow has about £800 yearly out of these Teinds.

Though, like everything else, they arise out of parishes, they have, in the practice or feeling of the country, no parochial locality. The parish does not

know of their existence. So that you need not fear applying them to extra-parochial purposes.

A great part of them is levied directly by the grantees. The rest is levied by a Collector named by the Crown. The family of Anstruther held this office for the greater part of last century, with a disgraceful job of a salary—about £1000 a year, I believe. It is now held by Mr. John Kerr, W.S. at a salary, I believe of about £400 ! (N.B. A job also. *Smite it.* He is Lord Dundas's agent—who got it for him.)

The only way in which you can see the whole matter at a glance, is to get a report from the Woods and Forests; or to get a sight of the said Mr. Kerr's last annual account. I have no doubt that under the old system the grants had no object but corruption; and therefore if they were reconsidered, some money might be saved for right purposes; for all of them are not irrevocable. But you won't anyhow save enough to feed the £150 clergy. I would rather see it laid out in supporting our beggarly colleges, or in building a General Assembly Hall first.

I regret the insignificance of this information ; but I have given you all I have.

There is to be a great Anti-patronage meeting here on Monday.—A fearful question. Ever,

H. Cockburn.

From Viscount Althorp.

Downing Street, Friday.

My dear Kennedy,

I send you back Henderson's letter. I am inclined to think that as we are to act upon the non-exposure principle, that it will be better in the first instance for the Woods and Forests to require the account he alludes to as a means of informing them of the state of the department now intrusted to their care.

Yours most truly,

Althorp.

From Henry Cockburn.

Edinburgh, 1st December, 1833.

My dear Kennedy,

Sands's losing the Customs is surely a conclusive reason against his being also immolated to Roderick in the Teinds. In place of throwing more into the hands of the Crown Agent, would it not have been better to have given all these agencies in *civil* business, such as Excise, Customs, Post Office, &c. to one separate Crown Agent in matters not criminal?

The references do come to us; and though the delay in answering has been sometimes unavoidable, I have no doubt that on one or two occasions we have been slow. I shall try to prevent this hereafter. But it does not always depend on me. For example,

Sir J. Craig's affair I have never seen yet. It has been with the Advocate all along. I am to get the papers soon. The King's printers matter has required some examination of patents, &c. Our opinion about the Register of Resignations was sent to Sir H. Jardine some days ago; at least it was certainly signed by me for this purpose. I am glad you have told me about Reports being the proper form.

I shall try to get you some information about that antiquated and mysterious thing called Bishops' Teinds.

Nothing is more certain than that the poor reverend bodies should get more food. If you can't get £12,000 for them elsewhere, sacrifice an English Bishop.

The Anti-patronage party are on the rise, and this case must be fairly met soon. Ever,

H. Cockburn.

I don't mean that I would take the Post Office from the present Agent in order to give it to the Civil Crown Agent—but only that as they fall, their union in one office seems to me to be the sound course. But if Leviathan Roderick is to be the man, the less that is said of it the better; unless the object be to hurt the business, and make the public rebel. Sir James Craig always backs him, but, *as I know*, cordially loathes his apparent and insatiable friend. Ever,

H. C.

Edinburgh, 5th December, 1833.

My dear Kennedy,

I am told that there is one way in which probably something effectual might be made of Bishops' Teinds. It has long been a custom to give the heritor out of whose lands these teinds are due a lease of them for *nineteen* years, on payment of the Teinds for *three* years—*i.e.* suppose 50 bolls at the fiars' prices worth £25 are due yearly to the Crown as owner of Bishops' Teinds from the estate of A.; A. pays £25 for three years, and gets a lease for nineteen years; in other words, he pockets the Teinds for sixteen years without paying anything.

Whether this be the fact or not, I don't absolutely know; but I believe it to be so, to a considerable extent.

Where these donations are given to Learning or Charity, it may be unwise to disturb them. But where they are given now merely because they used to be given formerly, and were given formerly as bribes to profligate individuals for political iniquity, what mercy are they entitled to? Ever,

H. Cockburn.

From Viscount Melbourne.

Brocket Hall, December 15th, 1833.

Dear Kennedy,

As I understand you are staying in London,

perhaps you may like a day or two's shooting, and in that case I shall be glad to see you here on Tuesday next. Ellice and some others are I believe coming. If a later day should suit you better, it will be the same to me. Yours faithfully,

MELBOURNE.

From Henry Cockburn.

Edinburgh, 16th December, 1833.

MY DEAR KENNEDY,

I have got your Bursary papers. I shall send you my views more fully very soon. At present all I have to say is that the Glasgow students are held down shamefully by having not one word to say in the awarding of the various prizes by which their College is distinguished, and that I have been struggling for two years to get some of these Bursaries determined by the youth,—in vain. This vacant ten-pounder is an excellent case to begin the experiment with. For 1st, It is small, and therefore no failure can do harm; 2nd, The leet by the Professors has already winnowed the competition down to six candidates; out of whom the deuce is in it if the students can't choose safely.

But before advising you definitively, I have to get some information,—for which I have written.

Meanwhile don't allow anything to circumvent or foreclose this idea;—the execution of which will not merely render his Majesty popular, but will,

academically considered, do great good to the College, by inspiring the youth and setting aside professorial jobbing. Ever,

H. Cockburn.

Edinburgh, 29th December, 1833.

My dear Kennedy,

Nothing has ever gratified me more than the way in which your personal management of the funds set free from the Board of Trustees has been appreciated. Of course that Board does not like it, and of course all those who have absurd expectations of their own are disappointed. But the public opinion —and that of all candid men—is decided and warm in approbation.

I wish something could be done for the Arts, but I can't say very advisedly, how it ought to be done. I would be content if the Scottish Academy had a grant merely sufficient to pay the rent of their exhibition room; after which they might be left to sink or swim according to their powers. But this rent regularly eats away all their exhibition profits. The grant might be during pleasure, and so could be resumed whenever they ceased to require it.

I am not neglecting the Bursaries. On the contrary I have had a fight with the Principal about them.

Poor Brougham's* fate is very unfortunate and very ill-timed. It will kill his mother; and the castle being thus thinned, what is to become of the learned Keeper? I doubt if James did him much good in *rebus Scoticis;* but in other matters, I believe he was very useful.

Our reformed Town Council is doing very well—and I believe that this is the general case. The Church is to be the next target. Many an arrow is in the shaft against her. None is more unreasonable than the intolerance of tolerated kindred seceders. I hope to God that Government will tell us in due time what we are to do, and not leave us, as last May, doubting their wishes in the middle of the venerable debates. I am for the veto—and as what we are to stand upon finally. Ever,

H. Cockburn.

1st January, 1834.

My dear Kennedy,

As your resolution is taken it is needless to object. But it is impossible not to lament; especially if it be your health that renders it necessary. I can easily see why you abdicate office, which is laborious, and implies an obligation to attend the House every

* Mr. James Brougham, M.P., for Kendal, died at Brougham Hall, 22nd December, 1833.

hour. But why you should vacate your seat, which no patriot is bound to fill oftener than his health permits, so as he fills it often enough, I don't so clearly discern. Let me forewarn you, before the torpor, or the sensitiveness, of retirement fastens on you, that it will require all your care to preserve your mind under permanent rusticity. Remember Sir Harry. I hope to God that your seat at the Treasury is to be supplied by some worthy Scotchman, or at least by some man whose peculiar business shall be Scotland. Now that our public business is all done in London, this is not convenient alone, but absolutely necessary.

Your withdrawing recals many past projects, and half dissolves many new ones. I think we have worked well together; by right means, towards right ends; ever without the tincture of a personal object. Jeffrey excepted, there is no man now in London with whom I can confederate, easily and confidentially, about Scotch measures and Scotch men. I wish a couple of our Judges would take promotion to Heaven and let me get into harbour; and then we might daunder along the Girvan together, pitying politicians, and wondering why past or present public servants were not duly pensioned. But the great good of being a Scotch Judge is that it implies mortal immortality.

Ever,

H. Cockburn.

5th January, 1834.

My dear Kennedy,

Send down your Bannatyne vote for *two* vacancies instantly, else Lord Holland (if you mean to vote for him,) may suffer. Many of the Tories vote for him on an understanding that we vote for their friend Lord Lindsay, who will be an excellent member. So vote for him next, if you choose.

And above all, were it the last act of your public life, strain every nerve, in the best quarters, to get the Deanery of the Chapel Royal, now vacant by the death of Dr. Inglis, for the Rev. Dr. Macgill of Glasgow. We shall all be made fools of if it be not given to the man in whose favour every intelligent person is decided. The oldest Professor of Divinity in Scotland, the admitted author of our whole improved system of theological education—his merits as such recorded by the College Commissioners,—a devoted teacher, who voluntarily resigned a living because he thought the plurality inconsistent with a Professorship,—a retired scholar,—the friend of Henry Erskine, Sir Harry, and all Whigs,—the calm but determined maintainer, in the worst times, of all liberal opinions,—and old and poor. Against all this what have we? A man who gave the King an Orrery. Another man who on presenting an address got a gracious nod from the Queen. And a host of stupid useless dogs—all inveterate Tories, and mostly all rich.

Jeffrey has written.

Moncreiff has written,

I have written.

Ormelie will write.

But still you, who are on the spot, may do more than us all.

Passing by old, poor, apostolic Macgill the Whig, will make all the Tories in the Assembly cheer.

Ever,

H. Cockburn.

The only exception I make is in regard to Dr. Chalmers. He has already a *chaplainry*, which is not so good as a Deanery, and it is possible (though I don't know that it will be so) that he may wish to have the better thing. If so, the truth must be told, which is that his claim is not a tenth part so strong as Macgill's.

He is younger.

He is richer.

He is not a Whig.

He has not done so much public service.

Moncreiff who has just been here, agrees with me that if Macgill be passed over, the General Assembly can't be managed.

H. C.

Edinburgh, 12th January, 1834.

My dear Kennedy,

I return the papers about the Glasgow Bursary. The person to be preferred is James Somers. His only competitor now is Claudius Buchanan. Because since the list of six was given in by the Professors, three have got other bursaries which of course destroys their claim to the one in question, and one has died. Somers and Buchanan alone remain, and Somers stands highest of these two in the Professors' list, and is also most recommended by the students, whose opinion I have ascertained as well as it can be done quietly.

The sooner Somers is now set at ease the better.

As it may possibly be of use,—though I can't exactly tell where,—I send you, on a separate sheet, a short memorandum about these Bursaries.

I got your address. It is not well printed, at least as to punctuation; but in substance it is excellent, and has made an impression.

I can't make out the name of the person under whose cover you bid me return the Bursary Papers, so I consign them to your secretary, whoever he may be.

Ever,

H. Cockburn.

17th January, 1834.

My dear Kennedy,

Jeffrey and I have drawn up a report about Exchequer delinquency. If it be wrong, this is not owing to our not having thought of the subject.

It is a very ugly scene. But these things are certain:—

1st. That nothing will ever be made of the fees.

2nd. That all idea of trying an Exchequer defaulter before the two existing,—or rather vegetating,—Barons is ludicrous.

3rd. That even for Parliament the only safe, or just, course is to send down some skilful person here to enquire—the first act of that person being to possess himself of the whole books and papers. The Auditor, to whom a reference has been already made, is a poor craven body,—terrified for Jardine.

I wish to God the result may be, that he—his future delicts being checked—may be let alone; for these visitations are very disagreeable. But quoad justice and public duty, I feel perfect confidence in the view we have taken.

Ever,

H. Cockburn.

From Sir J. R. Graham, M.P.

Admiralty, 1st February, 1834.

My dear Kennedy,

I do not at the present moment contemplate the necessity of any further exchange of clerks between

Somerset House and Deptford. I cannot therefore give any promise to Mr. Glovy in conformity with your wish; but on a future occasion attention will be paid to any application he may make.

I am sincerely sorry that we must lose you; but I rather envy than wonder at your decision. I hope, however, that your health will be quite re-established, and that we may meet again on that arena, where so long we have fought and at last conquered side by side. However this may be I shall never forget your public virtue and private worth; and I shall always remain,

My dear Kennedy,

Very truly yours,

J. R. Graham.

From Henry Cockburn.

Bonaly, by Colinton, 2nd April, 1834.

My dear Kennedy,

I have nothing to say, and write merely for my own pleasure, and to know how you are. As you have cast the senate behind you, I am sure that you will be the more anxious to have your old friends beside you, though it should only be in the form of ink. I trust that your health is improving. With good spirits it is not easy to avoid getting strong under rusticity. Tell me all about yourself, your occupations and projects. The Member for Dumbartonshire

felt idle one day some years ago in Glasgow, and therefore relieved himself by letting off a lecture to the weavers, on political economy. Suppose you try your hand with the wabsters of Maybole. The old public you see is struggling on. Is it not a shame that we are not to have (at least so it seems) a Scotchman in the Treasury, or in any of the offices where Scotch business is done, especially if Graham shall get himself a seat? His coming forward as he says to his probable ruin, and certainly to considerable loss, against Sir George Murray is a noble act; and considering the effect of keeping up the cause of independence in Scotland, it is one for which he ought to be gazetted instantly. The Tories say Sir George is to walk the course. Backwards, I trust.

Will Rosebery do any good with the Entail Bill? The Patronage Committee seems as yet to be going right. I am told that Creefy's evidence was most powerful, decisive, in favour of patronage checked by a veto, or something like a veto. They say that he has not only converted the Tory members to the veto, but the anti-patronage men to patronage. Mother Church seems in a baddish way everywhere. She has had her day. The worst,—at least the most nauseous,—thing in the times seems to me to be the degradation for all popular authority by the publication of all the trash spoken at their statutory meetings by the people's local representatives. The Old Town

Councillors were, personally, lower than the new ones. But they were covered by a veil of respectable impenetrability. Everything now is made public, and this has brought our local authorities, when their name is legion, into great and just disrepute with sensible people. However this again is compensated by increased purity, and the public business being thoroughly done, or at least discussed. But they are very bad in some places.

So —— after many abortive rises, has got fixed upon the hook at last. What a fool. However the only question with him is whether he is to be Premier next summer, or leader of the Commons. It is a pity that flash can't do without character.

Is the Sheriff Circuit Bill to be abandoned, or have you given it any foster-father? Now that you have leisure to look back, and compare what was with what is, don't you doubt your own identity? Can anything be more clear, to an intelligent and candid man, than that the public mind had reached a point which made Reform the *only* preventative of a bitter revolution; and that the only way in which it could operate to this effect was by its being made at once so large that it completely satisfied all just demands? A half measure from Wellington, would have been worse than the no measure even of a Castlereagh. All your friends in Edinburgh are well, I believe. Rutherfurd and Fullarton go to London to-morrow. The only great

new event is Sir George Warrender's dinners at Bruntsfield house, which are not provincial.

Come and see us in June. Remember me to Mrs. Kennedy. Ever,

H. Cockburn.

William Clerk was at a steeple chase last week on horseback!!! I need not say that the horse was borrowed—not hired; and he was observed to mount on the cheap side of the toll. I wish some of the old judges would try a steeple chase.

The Dissenters seem to be at it.

From Sir J. R. G. Graham, M.P.

[Private.] Admiralty, 7th May, 1834.

My dear Kennedy,

I will name Dr. Wilson to Sir William Burnet, and will endeavour to employ him if an opportunity present itself.

I have not forgotten your wish that Commander Deans should be promoted; but I can assure you the difficulty at this moment is such as to prevent me holding out an immediate hope, though my desire is sincere to attend to your recommendation of him.

I envy you your country life and quiet home. I trust your health may be restored; and you have no

friend who esteems your character more highly or remembers you with more regard than

Your faithful and sincere,

J. R. G. Graham.

From Henry Cockburn.

Edinburgh, 10th May, 1834.

My dear Kennedy,

The present plan is that Jeffrey is to become Lord Craigie, and Murray Lord Advocate. I say the *present* plan, because whether Jeffrey would make or be allowed to make, a vacancy in Edinburgh, if it were probable that the next election would be in danger, may possibly admit of some doubt. And I grieve to say that Edinburgh is far from safe,—solely for want of a right candidate. Murray came last night; and we stand thus. A Radical—probably Aytoun—and a Tory will certainly stand. The Tory, no matter who or what, will have towards 2000 votes—say 1800. The Radical will have 800 or 1000. We can't reckon on polling more than 5000 in all—there being only about 6000 registered. So that you see that the Radicals, gleaning every ardent Whig, leave us rather a close heat with the Tory. We were triumphant last time because the Radicals joined us, and had no force had they opposed us. Now they have got strength in Edinburgh through

these cursed church questions. They will vote for nobody who does not pledge himself against Patronage, and against the marriage of Church and State, and against keeping up the present number of the Edinburgh Clergy, and against Annuity, &c. Now this seems to exclude Murray and Sir John Campbell, and every official man who can't commit Government on these matters, in so far at least as they are not local. And where is our man? We have searched for him, as yet in vain. William Craig won't stand. Sir Thomas Lauder can't; the Provost is absurd; Murray won't leave Leith; the Attorney, besides what I have stated, can't, for the credit of Government, be asked to risk himself. A strange proposal has been made, for Sir John Cam Hobhouse, and it is not absurd, because he is free to commit himself as he likes, and he is very likely to lure away many Radicals. But in short at present we are completely at a stand; and Government is most averse to give the enemy another victory. The result I cannot foresee—even as to Jeffrey's next move; but it looks very ill. If he does not benchify, I hope I shall. I am most anxious to be in harbour. But I am still more anxious not to be so by Jeffrey's being kept chained to the oar. I want to see him among us again,—removed from vexation, and enabled to end his career in a situation of respectable and useful comparative repose.

Graham* is here. Hearty and manly. He has fallen before a confederacy of Lairds to domineer over their dependents. It is the victory of the owners of the soil achieved by the forced services of their helots and serfs. Their conduct has been atrocious. But it goes too much into details, which they may dispute, to admit of being duly exposed. Other counties will certainly fall in the same way: Mid-Lothian—Selkirk—Roxburgh; and we shall have the people, wherever they exist in masses, regularly drawn out, in bitter array, against these unhappy suicidal country gentlemen. I do not know, but I presumed, that Graham's seat at the Treasury depended entirely on his being in Parliament. Never talk of my going into Parliament, even for an hour. If you knew the facts you would know it to be literally impossible. Besides, the Advocate and the Solicitor-General could not be both absent.

I rejoice in your home happiness. I am resolved to see it this season. Is not this a good opportunity for taking a quarter's writing at the Parish school? Your last is beyond all example execrable. I have given it at least an hour—with glasses—and many other eyes, and I can only get a glimmer here and there.

Horner is to be resettled here this month. If a good candidate occurs to you, do mention him immediately. The Tories and Radicals won't join here;

* Mr. Robert Graham of Redgorton, who was at this time defeated in Perthshire by Sir George Murray.

but then the Radicals, who have no chance themselves, will rather let a Tory come in than join us. There is no satiating them with good legislation. They will make it purely a church question—in which they are joined by all Dissenters —all voluntaries—all anti-annuitants. Do suggest a man to put them down, or coax them. Ever,

H. Cockburn.

15th May, 1834.

My dear Kennedy,

After scenes of folly that are absolutely indescribable, that modest class of persons called the citizens, have at last—but only in despair—humbled themselves so far as to say that they will willingly give the Attorney-General an opportunity of making their acquaintance; and so a requisition will be sent to him to-morrow. During the last twenty four hours, their pleasure has successively fallen upon and been taken from, Lauder, William Craig, the Provost, and *Douglas of Cavers !!* All this is since yesterday, when we knew that Hobhouse would not come. Young Craig agreed to stand; but in four hours it was found that he *and his father* were too *unpopular !!* At last it came to this—take the Attorney, or give in; and they now say they will take the Attorney. Whether he will come is a most important matter for

him and for Government. The effects of his being defeated are manifold and obvious. Rather than this, we had much better decline the contest, and leave the Radicals and Tories to settle their own accounts —humiliating though this course would be. Don't disclose it; but I have stated to London the facts which make me, not absolutely despair—but very low in my hopes. I expect to be beat. And I should not wonder at its being a hollow thing against us. But I may be wrong. If he does not come forward we must cease to try. In which event Aytoun will probably be the member; for many of our friends will rather vote for him than let in a Tory.

The thing has been as ill-managed as possible. I know no possible blunder that has been omitted. But the constituents themselves have been chiefly to blame. Their obstinacy, conceit, and ignorance, has been most provoking and most disgraceful. All owing to that cursed Church ; acting on shallow and wilful heads. A few years of a good hard obstructing Tory Government would do them much good, and our standing aloof, though not our proper position, would give us more power hereafter. You see what folly can bring the very finest elements to.

Murray reckons himself quite safe in his Cinque Ports. Ever,

H. Cockburn.

23rd May, 1834.

My dear Kennedy,

Everything here looks well. It will be a rout of the enemy at Leith, and a defeat of them in Edinburgh. Murray is in a dream if he don't beat by three to one. I am by no means certain what the majority will be here; but I think that there is no doubt now that there will be a majority. It will be the greatest victory of Whiggism, if it shall prevail over both Radicals and Tories; but it is to be lamented that the folly of the Radicals has prevented the general body of the Liberals from showing an unbroken front to the common foe.

The Attorney has behaved admirably. He goes about in an old natural blue frock coat,—with duck trousers, said to be dirtier than even mine,—strong shoes, —gloveless palms; and on the whole looks, and laughs, much more like a popular candidate than like an Attorney-General. He has had various meetings in the various districts, and has never failed to make a good impression, by his plainness, readiness, candour, and good nature; independently altogether of the more common excellences of talent and good clear practical speaking. That —— Church has been the only devilry; but he has steered through its breakers very skilfully.

Ever,

H. Cockburn.

Friday.

My dear Kennedy,

Murray *is* member for Leith, by a majority of somewhere about 300, and the Attorney *will be* member for Edinburgh to-morrow by somewhere about double that number. At the close of this day's poll the numbers were somewhere about 400 for Aytoun, 1100 for Learmonth, and 1400 for Campbell. But the Tory is nearly out, and the hopelessness of the Radical being plain, several of his adherents will come to-morrow to the Whig, who may yet poll enough to give him 600 on the whole. But at any rate I consider his success as certain.

You see there has been, or is, another crisis. Our private accounts to-day, *which may be depended upon*, represent everything as not merely safe, but strengthened. But it requires no seer's eye to discover that there is many a paroxysm to be survived before things are made right and natural.

Glorious weather. I hope you enjoy your renewed vernal acquaintance with buds and leaves.

I hope to God Abercromby may be one of us now.

Ever,

H. Cockburn.

Sunday.

My dear Kennedy,

So you see we are safe. Murray by a majority of 237, the Attorney of 530.

The last had	1932
Learmonth	1402
Aytoun	461

So the Whigs had more than both Tories and Radicals joined.

Both of these Law Officers are to be chaired to-morrow; a foolish ceremony which however the people won't give up, and they are both to be sworn in on Thursday. The Attorney has made himself very popular with all classes. *We say* that the Tories have exceeded even the atrocities of Perthshire in intimidation and corruption, and I fear it is too true. Had Campbell been in any danger, he would have had at least 500 votes more, but these arts kept them back from the mere danger of voting when it was not necessary.

We are all anxiously hoping that we may have a new election instantly. Abercromby's accession to office would be invaluable in this crisis. The private letters to the Attorney and others, from the surest quarters, represent the King as firmer, and Government as stronger than ever. But they have plainly an awful shock before them with that cursed Church.

Ever,

H. Cockburn.

15th June, 1834.

My dear Kennedy,

We are at it again you see. The Master of the Mint* has been here for two days,—quite well, and strong in spirit. He, and his address, appeared on the very day of Learmonth's Conservative dinner;—to give it a relish. We were afraid that wine and eloquence might excite them to opposition. But it seems that they are to have sense to be quiet; so that to-morrow se'ennight the nomination and election will be on the same day, and his head will be southwards that evening probably. What a mercy his Cabinet seat is; both in itself and as a symptom. And Cambridge too! In short if the Radicals would get some patience, and the King immortality, so that the obvious growth of the public mind in knowledge and right views, might be left free to operate, things would do very well.

Glorious weather. I never saw vegetable life in greater splendour. We had a riotous party at bowls yesterday at Bonaly, where the very hills seemed to be dancing in their sunshine.

Jeffrey is a Lord of Session! an actual red gowned, paper Lord. A framer and lover of acts of sederunt. An admirer of the Nobile Officium. A deviser of Interlocutors. A hater of the House of Lords. He nods over the same bench where nodded the dignified

* Mr. Abercromby.

Eskgrove, and adorns the long pure cravat which typified the calm elegance of the judicial Braxfield. I wish you had seen him as he took his seat. Part of the ceremony consists in his going behind their Lordships, the whole being present, from right to left, where his place is, shaking hands with each as he passes. Four cordial shakes there were, Mackenzie's, Moncreiff's, Cranston's, and Fullerton's. But the other nine ! Had you but seen Charles Hope hailing as a brother the Editor of the Edinburgh Review; Balgray polluting his Perthshire palm with that of the framer of the Reform Bill; ——— clenching his Beacon fingers, as the dog, whom, in the year 1802, he caused the Faculty to reject from being even a Collector of Decisions, approached; Glenlee grinning —— at the challenger of David Hume; and Meadowbank taking him all in his arms with ostentatious hypocrisy. Ever,

H. Cockburn.

From Viscount Althorp.

Downing Street, June 20th, 1834.

My dear Kennedy,

If you want a bull now, I have a young one that I can let you have. I do not say he is quite perfect, but I think him a good one, that is I did at Easter, and I have a good report of him now. His hind quarters are as good as possible, and so are his

loins, and indeed the only fault I think you will find in him is that his shoulders are a little upright. He was calved the 12th of last July, and consequently will be fit for use in August. He is got by Alabaster dam, (No. 55 at Mason's sale) by Monarch g. dam, (No. 4 at Mason's sale) by Jupiter, g. g. d. by Sir Oliver, g. g. g. d. by Trunnell, g. g. g. g. d. by Favourite, g. g. g. g. g. d. by Favourite, g. g. g. g. g. g. d. by Duke, g. g. g. g. g. g. g. d. (Favourite's grandam) by Alcock's bull, g. g. g. g. g. g. g. g. d. by Smith's bull, g. g. g. g. g. g. g. g. g. d. by Jolly's bull.

Alabaster, the only bull in this list not in the Herd Book, was bred by me and used by me for two years. He was got by Firby d. by Yorkshireman, g. d. by Sir Peter, g. g. d. by Hutton's bull g. g. g. d. by Cleasby.

The name of the young bull I offer to you is Tyrone, his colour is a red roan and is as handsome as any colour I ever saw on an animal of the ox kind. The price I ask is £45. If you take him I will send him by a careful man, or you may send for him if you like, though I should prefer the first; in which case the cost of the journey, somewhere about £8 or £9, may be added to the price when ascertained. He is of a very good milking sort.

Yours most truly,

ALTHORP.

Downing Street, July 18, 1834.

My dear Kennedy,

Tyrone will leave Wiseton on Saturday next. He will go by Liverpool and Glasgow, as by this mode his feet will be saved a great deal of travelling on the road. I understand he will quit Liverpool by a steamer for Glasgow on Wednesday the 30th, at night. I conclude the passage to Glasgow cannot be more than a day and a half, so you may know when to expect him. Yours most truly,

Althorp.

I had hoped I had escaped, but I begin to fear it will be impossible for me to do so as long as I am in the House of Commons.

Downing Street, August 7, 1834.

My dear Kennedy,

The first cross in my opinion produces the greatest effect. If you put a well bred bull, that is a bull whose pedigree can be traced for many generations through good animals, having the peculiarities in shape and quality which we consider merits, to a cow who has either no pedigree or a very short one, and whose ancestors therefore have not possessed these peculiarities, or if they have, have possessed them in various ways, the probability ought to be that the produce will follow the ancestry of the bull, rather

than that of the cow, and *vice versâ*. This as far as I have experience is practically the case. The first cross will therefore produce an animal which will be extremely like the well-bred parent. In the second cross, the cow having a marked line of ancestry on one side will interfere more with the characteristics of the bull and so on. You will therefore frequently find that the second cross is not so good as the first, but it will always be a great improvement upon the original cow. After the second cross the original blood will be soon obliterated. This is my theory of breeding, and my practical experience accords as much with it as on such subjects practice usually accords with theory.

I am glad you approve of Tyrone. He may be rather slack at bulling at first. I had two young bulls last year who would do nothing till they were nearly a year and a half old. Of course you know that a bull for work must not be allowed to become fat.

I shall be obliged to you to have the money paid to my account at Messrs. Hoares, Fleet Street, London.

Yours most truly,

ALTHORP.

Wiseton, near Bantry, August 21st, 1834.

MY DEAR KENNEDY,

I shall be here from the 13th of September till about the 5th of October. I should be delighted

to show you my cattle, and you can easily come and see them.

The dam of Tyrone is at least an interesting object. I think also that any farmer will be pleased with the bulls I keep for my own use.

Yours most truly,

ALTHORP.

Downing Street, Sept. 4th, 1834.

MY DEAR KENNEDY,

The reason I called the bull Tyrone was, that first the calves out of his dam have T. for the first letter of their names,—and secondly that he was calved on the great Orange Anniversary the 12th of July, on which day the Orange county of Tyrone is all alive. Sir John Byng gave the name. I have got a bull of my own which I call Wiseton, that name therefore is engaged. Yours most truly,

ALTHORP.

I shall have my house full on the 15th for Doncaster Races and cannot therefore go to Edinburgh.

From Earl Spencer.

Wiseton, May 8th, 1835.

MY DEAR KENNEDY,

I think it clear that the Board of Treasury should be put in possession of the papers mentioned

by Mr. Taylor, or at least that they should be put within their reach. The course he ought however to take is not to communicate them to Mr. Stewart who is the present Scotch Lord of the Treasury, but to send them either to Rice or to Baring, saying he does so at the suggestion both of yourself and me. I would leave it to them to decide whether these papers ought to be made official by being registered, because if they do not consider the case one on which they ought at once to proceed, or if they require more information they may think it desirable to consider these papers confidential as we did.

I am very glad to hear so good an account of Tyrone. His dam is a good milch cow, and so were the dams of his sire and grandsire. I hope therefore the produce from him will not be deficient in milking properties.

I give you long notice that you may if you like arrange accordingly; I shall be here during nearly all July and August, and shall hope to see you and shew you my stock. If it was only to see Tyrone's dam it would be worth your while to come, for she will be looking very brilliant indeed.

Like you I feel the effects of my hard work in office and the House of Commons, but I fear much less severely than you do. But I have had repeated slight attacks of gout at about a fortnight's interval all the winter, and have never been able to keep my

stomach in good order. I hope however that my country life will set me up again.

Yours most truly,

SPENCER.

Wiseton, July 16th, 1835.

MY DEAR KENNEDY,

Some time ago I wrote to you to beg you to make your arrangements so as to enable you to pay me a visit here about this time. I hope you have done so, as I am now here and shall stay till the end of August. I shall be happy to see you at any time you like to come. It is even betting that you find me in a fit of the gout, as about half my time has been spent in that way since last October, but this will not prevent me from being very glad to see you.

Yours most truly,

SPENCER.

Wiseton, July 25th, 1835.

MY DEAR KENNEDY,

The 8th of August will suit me capitally, and I shall be delighted to see you.

Yours most truly,

SPENCER.

Althorp, September 3rd, 1835.

My dear Kennedy,

I am very much obliged to you for the enquiries which you have made for me. I think still there will turn out to be some mistake in the weights of your oxen, for the measurement gives such an extraordinary shape that it cannot be correct. For instance my ox last Christmas was six feet four inches in length, by nine feet nine and a half inches in girth. Your largest ox in Ayrshire is stated to be six feet eleven inches in length, by nine feet one inch in girth; so that my ox was thirteen inches shorter in proportion to his girth than the Ayrshire ox, which is impossible. If on the other hand the Ayrshire ox has the same proportions as mine had he ought only to be five feet ten inches long, and this would make him less than sixty-eight stone of Ayrshire weight, which I conclude is much too low. I am very glad Tyrone satisfied you when you went back. I shall probably be at Wiseton at the end of April, so I shall be able to shew Mr. Lowe my stock then.

Yours most truly,

Spencer.

Wiseton, October 8th, 1835.

My dear Kennedy,

I am delighted to hear that Tyrone was a winner, and this not in a discreditable way, but

opposed by competitors worthy of him. Mr. Charge and Mr. Crofton are both very good judges, and no man ought to be dissatisfied with their decisions.

I was waiting to tell you of the safe arrival of the fowls till I could tell you of the departure of the pig. This has been delayed by some repairs at one of the locks on the canal, but I intend him to set off next Monday the 12th. The fowls are very fine ones indeed, and certainly the last thing I expected was to find you making an excuse for their want of size. If they are to be much larger they will be bigger than turkeys. I believe it is impossible to have poultry too large, on the contrary the largest are the best for the table. This certainly does not apply to sheep. My sheep by the bye were all let, so I had none to spare for Mr. M^{c}Cracken. Believe me,

Yours most truly,

SPENCER.

Wiseton, April 22nd, 1836.

MY DEAR KENNEDY,

I am here, and as this is about the time you said Mr. Lowe would be passing on his way to town, pray tell him I shall be very glad to see him if he likes to stop here on his way. If you and Mrs. Kennedy are going up nothing would give me greater pleasure than that you should make this one of your inns. I shall not be affronted if you stay only to

dine and sleep, though I should like you to stay longer.

My farming concerns are going on prosperously if profit is not considered. That is I like the improvement my cattle have made, and I like very much the calves that have been born. Yours most truly,

SPENCER.

From Henry Cockburn.

Edinburgh, 18th May, 1836.

MY DEAR KENNEDY,

Thanks for your enquiries. The boy, on the whole, is doing as well as possible. No fever—or at least almost none—*he says* no pain—and very merry. The true nature of the loss of a right hand, and of half the arm between the wrist and the elbow, he is not of an age (11) to feel; and as he is of that temperament that denies there is any uneasiness in amputation, the present suffering is infinitely less than I could have imagined. It was a great shock to Mrs. Cockburn, but she is well. We were at Bonaly and were told nothing about it till it was over.

Fullerton and I were in Liverpool eight days. I regretted excessively that I did not see Romilly. He was there one forenoon and called on me; but (as a cobler always smells of wax) I sat in Court, and saw James Parke try civil causes the whole nearly of every day. The youth there is doing very well, and

I think has got into a most excellent house, and under very kind masters. What the result is to be God knows. But the lad knows that if he does not pay for his own porridge very soon, I won't.

Not being a merchant, and thinking that all letters and all strangers, come a great deal too soon, I groan over these railways. They will destroy all privacy, all provincial nature. The whole island will be a workshop; and all the peaceable independence and picturesque peculiarities, and salutary self-importance of little places will be melted in the general fusion of society.

Thomas, as was predicted, has *not* come yet—but hints about appearing when he is tired of London. We are told here that he has got his job done. A very convenient thing for him.

Who can wonder that such Purists as Lyndhurst and Wellington should be shocked at what is imputed to Melbourne? But if there be no rash letters, the thing, as a ground of political attack, is ridiculous.

The Solicitor, who has been in London, came yesterday, and reports well of most things. It is delightful to see the unanimity with which everybody attests the Speaker's health and official success. The "foolish Lords," as they are called in Shakespeare's dramatis personæ, are very distressing; especially to those who are attached to the aristocracy. No republicans ever did so much,

in so short a time, so unnecessarily, to lower their order, even in the eyes of their best friends.

Our dearly beloved Venerable proceeds to its annual slaughter of Mother Church to-morrow. The Commissioners say that the coarse, illiberal, vindictive brutality of the Dissenters of Glasgow, was absolutely shocking. They are well met. But of the two it has always appeared to me that the Seceders were the worst. Meanwhile no eclipse of common sense seems likely to abate the fire of either.

What a beautiful spectacle that was on Sunday! The best eclipse-ometer that I have heard of is the fact (for it is a *fact*), that at Kinnordy, in Forfarshire, a row of gentians, about a foot broad and a hundred yards long, *shut its cups* during the obscuration, —and opened them when the light returned.

Rutherfurd went to London for Lord Chandos last Friday, but is to be back on Monday next. I wish Cuninghame were in harbour. But the old Tory Judges stick to their chairs like the Heathen God, because the chairs stick to them.

I wonder if I'm to see Dalquharran this year. I hope your meadow, and your cloaca maxima, and your tile drains, are all behaving properly.

Remember me to Mrs. Kennedy, and to your mother if she be with you.

Why don't you come here and see us? We shall be very kind to you all June. Ever,

H. Cockburn.

From Earl Spencer.

Wiseton, July 23, 1836.

My dear Kennedy,

I was going to answer your first letter when I got your second one to-day. I had fully intended to have accepted your kind offer of coming to Dalquharran and seeing Mr. Walker's cattle to begin, and was going to tell you so. Just at that time I was summoned up to town to give a vote in the House of Lords, and upon my return to Althorp was laid up with a fit of the gout which has not quite left me yet. When this began I thought it might interfere with my plans, and I am sorry to say it has done so completely, for I must give up all my tour among cattle, but I hope to set myself up sufficiently to get to Lord Panmure's for grouse shooting, as by going in a steamer from Hull to Dundee, I can do this very easily and quickly, so as to have a good while yet to get rid of the effects of the gout. These have been rather severe this time and have cut me up a good deal.

You say Mr. Walker will have a drove worth seeing for Barnet fair. Can you let me know when and where they will pass the latitude of Althorp? because it is possible my man may be saved a journey to Brough Hill by meeting Mr. Walker. Barnet fair is to be on the 4th of September.

Yours most truly,

Spencer.

Wiseton, Feb. 4, 1837.

My dear Kennedy,

Sappho is arrived safe and well. I never saw a pointer whose looks I liked better, and I shall be very sanguine that she will be very valuable to me.

As you may perhaps pass this place on your way to town I beg to say nothing would give me greater pleasure than that you and Mrs. Kennedy should make use of it as an inn. I do not however press this at all, because I myself do not like visiting while I am on a journey, but if you should not agree with me in this I shall be here and most happy to see you if it is only for one night. Yours most truly,

Spencer.

From Sir John Newport.

(Private.) Wilton Crescent, 5th February, 1838.

My dear Kennedy,

You will be I doubt not a little surprised at receiving a letter from me, and I fear express or at least feel that, immersed as you must be in official business, I should not have trespassed on your time with what does not in any way concern it. I know however that your kindness will extend to me forgiveness, and, if you can, induce you to further the object I have in view, which is the endeavour to procure for the son of an old and faithful servant long since

deceased, any appointment in the light of an *office keeper* or *messenger* which might be within your reach. I have every reason to entertain a good opinion of him (although it is some time since I have had personal knowledge of him) from the information of others who have witnessed his conduct and on whose report I can rely.

His name is William Organ, and as he is well known to Mr. John Smyth who has the care of the Treasury Chambers in the Castle, you can from him more circumstantially ascertain the correctness of the information which has reached me.

I must again solicit your kindness to excuse this trespass on your time and patronage, and offering to Mrs. Kennedy and you my kindest regards subscribe myself

Your attached and sincere friend and servant,

JOHN NEWPORT.

From Earl Spencer.

Wiseton, February 21st, 1841.

MY DEAR KENNEDY,

I complied with your request quickly, but was ashamed of having been so long before I told you I had done so. I have I confess great doubts whether it is yet possible to establish an Agricultural Society in Ireland with any prospect of its doing much good.

Anything which would improve the agriculture of Ireland would of course do a great deal of good, but the state of religious and political feeling in Ireland is such that I cannot think it likely that any Society will be brought to act with the singleness of purpose which such a Society as ours in England must do in order to effect any good to the country. Even here we have the greatest difficulty in preventing an outbreak of political feeling. We can indeed manage to prevent anything political being actually said, that is we have hitherto done so, but we cannot prevent strong demonstrations of political feeling from appearing in our audiences. This was very much the case at Cambridge last year. In Scotland they have not been able to prevent political topics from being actually alluded to in the speeches. If politics interfere at all, an Agricultural Society must fall to the ground. I shall be very glad to find that my anticipations do not prove well founded.

From what I hear from London I am very apprehensive about Morpeth and Stanley's bills.* The Government must stand or fall by them, that is they must stand or dissolve Parliament, which will be the same thing as falling, for I am sorry to say their popularity is very low. It ought not, for the ten

* Lord Morpeth's bill was for amending the election franchise and the registration ef electors, Lord Stanley's confined itself to the latter.

years of Whig administration has done an enormous deal of good, and what is very satisfactory is, that it is good which cannot easily be undone, and which will compel any ministry, whatever they may wish, to act tolerably well. Yours most truly,

SPENCER.

Wiseton, July 27th, 1841.

MY DEAR KENNEDY,

I have read your papers which I had not time to do at Liverpool.

I approve highly of your proposal, and think it the most likely way in which the new Society in Ireland can make itself useful.

Our show at Liverpool went off capitally. The show of stock was first rate and the people all in good humour. It was rather a high trial so soon after a general election, but it succeeded completely. I did not see the gentleman you recommended as I was dressing when he called, but I sent him word that I should be very glad to show him my cattle here if he liked to come. Yours most truly,

SPENCER.

Wiseton, near Bawtry, Yorkshire, September 13th, 1841.
(Private)

MY DEAR KENNEDY,

It so happens that I have a sum of £250 accruing from a deodand to be laid out for the benefit

of a boy in Dublin of the name of Lawrence Andrews. He is now, as I understand, with a man of the name of Jackson who married his sister, and who is engaged in some trade at No. 41, Cuffe Street, Dublin. This man is very poor, and the boy who is now fourteen was not regularly apprenticed to him. I am advised that the best thing in the first instance to do is to apply twenty pounds in apprenticing the boy to this Jackson and ten pounds to clothing and other necessary expenses for the boy. The mistress of the boy's sister who was killed, and from whose death the deodand arises, has referred me to the Rev. Mr. Flanigan of Francis Street, and Mr. Powell of James Street, Dublin, whom by my desire she had consulted about what was best to be done.

As this is a case of charity, for the boy depended for his support and maintenance entirely upon the poor woman who was killed, I have no scruple in giving you the trouble of applying the £30 I now send you as I have described above. The remainder £220, must be invested, and kept till the boy may be old enough to set up in trade for himself.

Yours most truly,

SPENCER.

Wiseton, September 28th, 1841.

MY DEAR KENNEDY,

I think it will be most convenient that the

boy's part of the indenture should be in Dublin. Perhaps Mr. Flanigan or Mr. Powell would undertake to keep it. I therefore return it to you. There is another point to be considered, which is who ought to be named as trustees for the £220 which is to be invested in the funds. I have thought of Robert Latouche as one, but I have not had any communication with him upon the subject, and after hearing what you say of Mr. Flanigan and Mr. Powell, I now think it will be best that they should act with some one in London who will be able to receive the dividends without the expense of a Power of Attorney. Will you be good enough to sound them upon this ?

Yours most truly,

SPENCER.

Holkham, October 16th, 1841.

MY DEAR KENNEDY,

If Mr. Flanigan and Mr. Chalmers will undertake the trust as you say they will, nothing I think can be better, and I will ask Mr. Foster, my solicitor in London, to act with them, who will be able to receive the dividends without the expense of a Power of Attorney. Pray therefore let me know the Christian names and proper designations of these gentlemen that I may have them properly inserted in the Trust Deed. The sum which will be applicable to the purchase of stock for the Trust will be £220 minus the

expense of the Trust Deed. I shall make the reversion of the Trust to come to myself in case of the death of the boy before he is old enough to have the benefit of it. Yours most truly,

SPENCER.

A great deal of shooting and a little farming has made me slower than I ought in answering your letter.

Althorp, October 20th, 1841.

MY DEAR KENNEDY,

I have just got your letter enclosing Mrs. Jackson's. I think Mrs. Jackson's conduct most unreasonable and improper in writing such a letter, or rather in employing some attorney to write it, and not one farthing of the deodand shall go to her or her children. You had better tell her however that I have not received £300 but £250 for the deodand. When I saw the paragraph going the round of the newspapers I was afraid it might produce inconvenience. Yours most truly,

SPENCER.

From Lord Chief Justice Denman.

Middleton, Bakewell, September 21st, 1844.

MY DEAR KENNEDY,

Your letter gave me one of the greatest pleasures I know in my judicial career,—that of finding

the strict discharge of my duty in perfect accordance with the principles I embraced in early life, and sanctioned by those friends who know their value.

Need I say then that the least hope of contributing to the tranquillity of Ireland and to her real union with us by the establishment of a government by law fills me with satisfaction almost greater than I can find words to express? The recent event awakens that hope, and the information of yourself and others convinces me that the evil to be remedied is far greater and more inveterate than I had thought possible.

I will try to devise some measure respecting the constitution of juries, the law being clearly objectionable, even if nothing had happened. But you well know that without the previous sanction of Government nothing of that kind could pass. I think they might be induced to present a bill. If Doherty is to come among us, it would be a proper employment for him. He has sense and liberality which would not shrink from communication with the repealing leaders on a subject so important.

Depend on my anxious co-operation in any promising scheme, in whatever manner I can be made most useful.

Most truly yours,

DENMAN.

From Henry Cockburn.

Edinburgh, 27th January, 1850.

My dear Kennedy,

The greatest possible calamity has, suddenly, befallen us. Jeffrey died yesterday evening.

He was in Court last Tuesday—quite well and in his usual mental energy, next day he staid at home colded, but on Thursday and Friday he was thought to be quite recovering. But he grew much worse during the night, and on Saturday (yesterday) forenoon was pronounced to be in great and immediate danger. He lived however till about six in the evening,—when he passed away from us,—in perfect tranquillity and without suffering.

You know what he was to this place, and to his friends. It is difficult to fancy either without him. Nor is it possible to estimate, or almost to exaggerate, his value in literature, and in the promotion of public spirit and of sound opinions.

But, as yet, it is the personal loss of the friend that is bitter.

Mrs. Jeffrey is quite composed. I fear she will settle with her daughter in England, and thus remove the last trace of Jeffrey here.

Maitland, *I suppose*, will be the Judge, and James Moncreiff the Solicitor. But this must depend on Rutherfurd's own views,—which I dont know.

I am not sure that you know Moncreiff. An excellent lawyer, a powerful speaker, an admirable writer, and a generous, spirited, fellow, he is worthy both of his father and of Sir Harry.

Edinburgh without Jeffrey!—and his Court! He was its light and its pride.'

I trust that you are all well. I beg to be remembered to Mrs. Kennedy. Ever,

H. Cockburn.

Bonaly, Colinton, Edinburgh, 30th March, 1851.

My dear Kennedy,

You may possibly have heard that I have, very rashly, been induced to try to make out a memoir of Jeffrey's life. There can be nothing in any memoir of so factless a life,—at least in any written by me,—much worth. But there may be a great deal worth in a selection of his letters. Not at all from the importance of the *subjects* of his correspondence, for he was never in a position that could give *permanent value* to his epistolary communications; but from the pleasingness and the beauty of the letters themselves. Accordingly the chief object of this work is to get a good set of letters,—though upon nothing.

I have got a great number from various quarters; which I mean to use as a mine, from which to extract ore.

I hope you have some, and are not averse to let me use them. He must surely have sometimes written to you, particularly about our old, but at the time vital, Edinburgh disputes, meetings, dinners, &c. I have scarcely a line on these matters.

Do look at your leisure and see if you can let me have anything.

I hope Mrs. Kennedy and the master are well. Remember me to them both.

This getting the Attorney into port, I presume you all think comfortable. He at least well deserves it.

But hech! we're shaky! I hope you're against the Pope,—as I am. When the dropped clauses are restored, which is surely more than possible, what next? Shall we ever again have a ministry strong enough to do, or to abstain from doing, what they think right, *because it is right.* Everything seems to me to go by mere *roaring*, which is called the public voice. Since the Catholic Emancipation, and including that measure, every advance has been a concession to popular clamour, and not to reason.

I trust that Scotland is under your Woods and Forests wing, specially. Because I shall know who to write to when I want a thing done, or not done. For example, a set of idiots here are still eager in favour of destroying the character of the King's Park, by planting stunted bushes or leafless trees on the slope of Salisbury Crags.

Never take your eye off St. Andrews. There's a Provost there—a hater of old stones. Ever,

H. Cockburn.

Bonaly, 3rd April, 1851.

My dear Kennedy,

The letters will be quite time enough this summer or autumn, only when you get to revel in Ayrshire, don't forget them.

I am sorry for your official troubles, I (a rustic though) fancied that in the upper regions of great public offices, all was harmony, and love, and mutual complimentary flattery. However, in this age, reform will at last carry it; and if you be right in your objects, and duly conciliatory in your means, you will finally prevail.

Your educational principle is quite right. I have a provincial horror of these grand Etons, &c. out of which I am positively assured that a lad may emerge an immense Grecian, and with gentlemanly manners, but unprincipled and not able to count his ten fingers.

Don't let England corrupt the innocent Scotch Dominie.

They are woefully weak to be sure—our rulers. I don't understand the apparent want of pluck. Has Lord John no opinions at all now? or none that he won't nibble away? I half suspect that he is out already, which I shall be very sorry for.

I rejoice in your anti-Popedom. The talk to be sure is sickening, and seems endless, but this was unavoidable. It was a most insulting move on his Holiness's part. And I never had any idea that any disabilities should be removed, except such as punished their *religion*. Will anybody say that the Catholic *Religion* cannot be practised unless their Bishops take *British titles!* Their desire to have them shows what they mean.

But I find some sensible and pure men, (one not far off) who are under a bigotry of toleration, and can't say No, to any Catholic pretension. Ever,

H. Cockburn.

From Lord Cockburn to Mrs. Kennedy, in reply to a letter from Mrs. Kennedy to Lord Cockburn on the Publication of his Life of Lord Jeffrey.

Bonaly, Edinburgh, 23rd March, 1852.

My dear Mrs. Kennedy,

Many thanks for your letter, the kindness of which I feel and value.

It is a great gratification to me to have your approbation of the book. There are not many whose favourable judgment I appreciate more highly; more especially as I have great pleasure in ascribing it partly to regard for the author.

Had Kennedy and some others, only been pleased

to die before now, justice would have compelled me to say more about them, and in a manner that would have soothed their departed spirits, wherever they might have been. But the vicinity of Jeffrey to men and things still surviving, and the consequent necessity of caution, has been, in more ways than one, a great obstacle to the fulness which the work ought to have had. In the few sentences which I could safely give to your husband, I was only conscious of their justice, the pleasure they gave me, and their great inadequacy. I feel the truth of what you say about the sadness of having so many good men recalled, who are all gone.—But such is life.—The consolation of the survivors is to cherish the recollection of worthy memories and to cling to each other.

I was at one time in great alarm about Brougham, until I was relieved by finding that total silence was the only possible course. But what a fact in the history of that man, that the lives of four of those with whom his history ought to have been intermingled, viz. your father,* Mackintosh, Horner, and Jeffrey, have now been published, and he cast out of them all. (But pray don't tell him that I said this.)

Remember me to Kennedy with all possible kindness. Yours very faithfully,

H. Cockburn.

* Sir Samuel Romilly.

APPENDIX.

The year 1867 was the last year in which Mr. Kennedy lived regularly a portion of the year in London, keeping up, until that time, his relation and intercourse with the remaining private and political friends of his earlier years. But increasing age led him to cease, much to his regret, after that year to spend a portion of the year in London, and to live entirely in the country. But he did not cease to take an interest in the public affairs of the time, and in particular in the Progress of Reform, as advanced under the Reform Act of 1868, and in relation to his native county of Ayr. He felt strongly on the subject of undue interference with the Freedom of Election by Landlords, of which there were abundant examples around him. He issued an address to the Tenant Farmers of South Ayrshire in 1868, and being of opinion that Elections were conducted on unsound and objectionable principles, he proposed that a series of Resolutions should be adopted and acted on in South Ayrshire, and in a number of parishes they were approved of; and he believed that an excellent system might have been established; but those who assumed to manage the affairs of the Liberal Party in South Ayrshire chose to throw cold water on the Resolutions and oppose the proposed system, which was intended to cure a very objectionable system of large expense, which it was the practice to incur without knowing how it was to be paid. It seemed most desirable to put an end to such a system, and to substitute another which might have had the best effects in many ways.

The Address of 1868 and the proposed Resolutions are

here reprinted, in the hope that the latter may still be of some service.

To the Tenant Farmers: Electors of the County of Ayr.

Gentlemen,—I should not take the liberty of addressing this letter to you, were it not that already we hear of undue influence and coercion being exercised, in order to govern and control your conduct in the coming Elections,—and how much more may we expect.

As long as I live, and old as I am, I shall never cease to raise my voice against such unjustifiable practices, I care not on which side. I should decidedly object to votes being obtained, *by such means*, in support of the side which I have supported throughout my life.

If persons *do not* attempt to exercise improper influence and control, and if their consciences tell them that *they do not*, they can have no objection to the opinions I express. *If they do*, and their consciences tell them that *they* DO *pursue* such practices, however covertly, in that event my opinions must be distasteful, and my animadversion is meant to apply to their conduct.

The Legislature has conferred the franchise *upon you, not* upon your landlords, *through you in the proportion, to each landlord*, of the number of tenants he may have on his estate. You are not his Puppets and Bondsmen. You are Free men, with the right to exercise the rights given to you, with freedom and honesty. You are the Electors—not your landlords, except themselves as individuals.

I would presume to advise you to *meet* and *associate*, and resolve as a body to stand by each other, to pass resolutions asserting your rights, and your resolution to maintain them —stating at the same time, that while you have the utmost desire to cultivate and maintain the most kindly relations

with your landlords in their proper sphere, you are determined to maintain your own *independence* and *self-respect*, in relation to the elective franchise—the exercise of which is no part of your contract with your landlords.

With what right or propriety can any landlord require or expect you to vote under his instructions and not on your own opinion? How much credit and even influence do those acquire who scorn to descend to such practices! which no one has the courage to avow.

Union and concert cannot fail to fortify and maintain your independence inviolate, and carry you triumphant through the painful alternative in which it is attempted to place you, that of offence to your landlords or a sacrifice and violation of your opinions and consciences.

A union of the Farmers of Ayrshire is *a Moral Mass* which cannot be disregarded.

T. F. Kennedy.

Dalquharran, 31st August, 1868.

SOUTH AYRSHIRE.

Parish of

Resolved.

1st.—That we, the undersigned Electors, are of opinion that the Reform Act of 1868 is destined to be a most important era in the history of Scotland, and that it behoves those on whom high privileges have been conferred by it, to take care that they are rightly used and exercised with the utmost advantage to the good government of the country.

2nd.—That the rights of election, conferred by the Acts of 1832 and 1868, ought to be exercised with perfect independence, and not under undue influence and coercion, and with an earnest consideration of the principles, opinions,

and objects of those who are sent to Parliament to represent us.

3rd.—That in order to give effect to our principles, we, the undersigned Electors of the Parish of , deem it to be desirable and necessary that a General Association of Electors, holding our principles, should be forthwith formed, throughout South Ayrshire, founded on Sub-Associations, in all the parishes; having for its object the return to Parliament of a Representative holding our general principles, as contradistinguished from the principles of the old Tory party, to which we are directly opposed, and which we hold to be inconsistent with the best interests of the community.

4th.—That in the parish of , a Committee of five or seven shall be constituted, of the undersigned electors, who shall choose a Chairman and a Secretary from their number; and that such Committee shall co-operate, through their Chairman, with the General Association; and we undertake to subscribe, each of us, annually, a sum not exceeding £1, and not less than 2*s* 6*d*, in order to commence, and eventually to create, a Fund, to be administered for all such legitimate purposes as may be authorized by the General Association.

5th.—That the Executive Body of the General Association shall consist of the Chairmen of all the Committees in all the parishes;—who shall choose a President and a Vice-President, also a Treasurer and a Secretary, the last officer to be a paid officer, with such salary as the funds of the Association may be able, from time to time, to afford.

6th.—That the sole object of the Association shall be to promote and secure the return of a Liberal and Independent Representative for South Ayrshire, in successive Parliaments, by means which are in all respects legitimate and unexceptionable, to watch over and restrain all undue means

used, and to obtain a Representative, free of, or at least with a very moderate expense, *to him;* and that thus, as heretofore, the qualification of a Member of Parliament *shall not be* the expenditure of a large sum of money; thereby limiting the choice, and in many cases inflicting a pecuniary injury on the individual to such an extent as to destroy his independence, and thereby to render it impossible for him truly to serve a great County.

7th.—That the detailed Rules and Regulations of the Association shall be considered and established when the adoption of these Resolutions in the several Parishes shall shew the extent to which the proposal embodied in them is approved.

Another subject had for many years occupied Mr. Kennedy's attention, very much connected with the subject of juries in criminal cases, to which he directed the attention of Parliament in earliar times, viz. the "Secret System," under which all preliminary inquiry respecting "supposed crime" is conducted by the Public Prosecutor in Scotland. Some proceedings connected with the last General Election led him to address a letter to the Secretary of State on this subject, which was followed by a second and a third letter. These letters are here reprinted, in the hope that they may keep alive the subject, and in time contribute to an alteration in the law, which is so much to be desired.

Letter to the Right Honourable Henry Austin Bruce, M.P., Her Majesty's Principal Secretary of State for the Home Department, by the Right Honourable Thomas Francis Kennedy, in reference to the Public Prosecutor in Scotland.

Dalquharran, Maybole, 1st June, 1869.

Sir,—I hope I may be pardoned if towards the close of a long life I am desirous to bring before you, as Secretary

of State, a subject connected with the criminal law in Scotland; and as an apology I may state that when a member of the House of Commons in 1821, I was successful in that, and in the two following years, in effecting a change in the administration of the criminal law—viz. the abolition of the nomination without challenge, of the Jury in criminal trials, by the presiding Judge.

My proposal at first excited the denunciation of the Lord Advocate of the day, of the Judges, and of a large proportion of the gentry of Scotland, who answered loudly to the call made on them, to resist the change proposed. At that time it may truly be said that the people of Scotland had no Representatives. Even in those days, the change could not be successfully and permanently resisted, and now it seems strange that the law ever could have been what it was.

At the end of nearly fifty years I am desirous to see another change effected, and although not now in Parliament, so as to have the same means as formerly of proposing and effecting a change, I am persuaded that if an inquiry were instituted, through impartial persons, a change would follow from it. I am aware that, in High Legal Quarters especially, the same pre-disposition which existed in 1821, now exists in 1869, to adhere to existing system, but legal quarters are not those in which legal Reforms usually originate or are facilitated and promoted, but that is no reason why they should not be proposed and perhaps effected by others.

The subject to which I presume to request your attention, is connected with the important and distinctive system which exists in Scotland of a Public Prosecutor: and I should be very sorry to say one word to derogate from the great utility of that system, in the person of the Lord Advocate and his Deputies, and of the Procurators Fiscal, who are spread over the country, and who may be looked

on as small Lords Advocate in the provinces, possessing' high and low, powers, which, while they are most useful are also most dangerous, and which require to be placed under salutary check and control, and there can exist no such salutary and safe control as the day light of publicity and public opinion. My point is, that I object to all the *Initiatory* Proceedings and Enquiries of the Lord Advocate, his Deputies, and all Procurators Fiscal, being conducted *in secret*—not *coram publico*, that they are in truth *secret inquisitions*, without practical responsibility to any one, in as much as if enquiries are made no reply or satisfaction will be given—and if information is sought—it is of the essence of the system that it should be denied—and I do not complain that it is denied, while the system of secrecy is maintained, but it is to the *existence* of that system that I object.

I am aware that it is argued, that to introduce publicity would be to impair the efficiency of the Public Prosecutor and of the Law, but this argument is a mere begging of the question, and one of those specious statements which are always put forward when there is nothing better to be said, and when the object is to resist even the most judicious change.

It is to be recollected that the subject acquires great additional importance in a country in which coroners' inquests do not exist—and although there may be much that is faulty in the system of coroners' inquests in England, especially in the eyes of Scotch lawyers, they have the vast merit of entire publicity—which goes far to correct such defects as may exist. Their defects are as patent to the world as their merits. There can be no stifling and *hushing-up* enquiry.

I am very willing to express my belief that where proceedings are actually taken and conducted to a *public issue*, under the authority of the Lord Advocate and his Deputies, and by many Procurators Fiscal, they are well and efficiently

conducted, but the region as to which dissatisfaction exists in my mind is the very extensive region in which *no* public proceedings are eventually taken—where no account is rendered, where no enquiries are made, and if made would not be answered, and would be looked on as an impertinent interference with official dignity; where enquiries are made in an imperfect and slovenly manner, where matters *may be* compromised—abandoned, or settled under influences or motives, which could not be exercised, if all was done in the light of day, and if a universal publicity existed.

I am not prepared to cite the multitude of cases which during my life have given me dissatisfaction. I have kept no record of them, but I remember that many such have existed, and some few I remember recently—but I should weaken my general statement by particularizing matters, which, singly, might appear small.

I venture however to lay it down as a general principle that all inquiries made by the Public Prosecutors, high and low, ought to be conducted in public, and if under a system of publicity a few cunning rogues should escape, who might be caught in the meshes of the Law under the secret system, such a result is far preferable to the absence of that wholesome state of confidence and *satisfied* public opinion, which a system of openness and publicity can alone create and sustain.

The propriety therefore of instituting entire publicity is the principal topic into which I presume to suggest that an enquiry should take place by competent persons, *whose previous position does not imply that their preconceived opinions are wedded to the present system.*

The next point is that Procurators Fiscal should be public officers alone, and be debarred from taking private practice on any pretence whatever. It is clear that the interests of private clients are wholly inconsistent with the impartial

discharge of public duties. I have known many such cases. As an example, nothing can be more objectionable than that a Procurator Fiscal should be the private legal agent of a wealthy railway company from whom considerable emoluments are derived, with the hope of increase, while the duties of Procurator Fiscal may be less well paid. Suppose a fearful accident on the railway to occur, inferring serious claims for damages by numerous parties, none of whom may be of any importance in the district in which the accident occurs, unknown almost by name. It is the duty of the Procurator Fiscal, *of his own proper motion, promptly* and *efficiently,* to enquire into the cause of the accident, and whether the railway company had *taken all due precautions,*—and that by *secret inquisition.* Whether the railway company or the injured and perhaps unimportant and unknown parties are most likely to enlist the inquisitorial energies of the Procurator Fiscal most effectively, it is easy to determine. It is a case in which a hush-up is a probable result.

The Procurator Fiscal ought to be an independent and unbiassed officer, or a migratory deputy of the Lord Advocate, acting in the face of the public—with *open doors.*

To revert to the general subject.

I may illustrate it by a case which is in part known to you already, and which has recently acquired an additional importance, which is much to be regretted. I took the liberty to transmit to you some time ago, a copy of a letter which I had addressed to the Lord Advocate on the subject of the late election in South Ayrshire, and ventured to suggest that it might be sent to the Committee sitting on Election Procedure, and you were pleased to desire it to be intimated to me that it had been so sent.

So the matter rested, until I received from the Procurator Fiscal of the County of Ayr, what appeared to me a very extraordinary letter, implying that *political agents* had been

permitted to approach the Procurator Fiscal when he was holding an investigation under instructions from the Crown Office—enquiring whether I had also been approached by political agents—and whether I was disposed to concur in the Procurator Fiscal staying his proceedings! To this letter I replied, as it seemed to me, at the moment, to deserve. But having previously received a letter from the Crown Agent at Edinburgh on the subject, and happening to be at Edinburgh, I thought it desirable to see the Crown Agent, but from whom I was unable to learn anything. I again addressed a letter to the Lord Advocate, and by his directions was informed that the letter of the Procurator Fiscal to me was written "under the authority of the Counsel for the Crown," and that the Lord Advocate "approved of the course which had been followed." My surprise was now transferred from the Procurator Fiscal to the Lord Advocate:—when I learned that Liberal or *any* agents could have been in communication with the Public Prosecutor, and that the Procurator Fiscal was instructed to communicate with me in order to procure my acquiescence in a *suppression of enquiry*. The result of a *completed* may be quite different from an *uncompleted investigation*, and I was invited to concur in there being "no further steps taken." If there was no case of culpability, there would have been no motive to seek my concurrence.

Such occurrences were highly distasteful to me, and very much more so when originating from my *own* political party.

It would seem desirable that the Committee of the House of Commons, to whom my letter to the Lord Advocate was sent, should themselves enquire into the subject, and ascertain the *channel* by which Liberal agents approached the Public Prosecutor, with the singular object of hushing-up an enquiry into the misdeeds of their political opponents.

All persons should be deterred from interference so im-

proper, and even under the "Secret System," the high functions of the Public Prosecutor should be above all question and criticism.

I beg to subjoin a copy of the correspondence, which, I am sorry to think, exhibits a very disagreeable picture of the secret system.

If an enquiry were instituted by *impartial persons*, my conviction is, that it would result in the abolition of the system of secret investigation, and the substitution of openness, publicity, and responsibility to public opinion—thereby creating the utmost reliance and confidence, which I regret to say does not and cannot now exist, and that in 50 years, there *having* existed such a system of secrecy would be as great a wonder, as that, 50 years ago, the Presiding Judge in criminal trials *picked and selected* the jury, without challenge.

If the Public resolve to have a public, instead of a secret system, it cannot be denied to them—but all I venture to ask is an enquiry. I have the honour to be, Sir,

Your very obedient servant,

T. F. Kennedy.

I.—Copy Letter. Mr. Kennedy to the Lord Advocate for Scotland.

Dalquharran, Maybole, 17th March, 1869.

My Lord,

I consider it to be a duty to the public to make known to you, in order that the public may be protected by such proceedings as you may deem to be proper, certain facts of which I am *informed* on undoubted authority, in reference to the poll at Girvan, in the late Election for South Ayrshire in November last, and which are in a great degree patent on the face of the poll books.

1st. A registered elector (No. 1407 on the Register), named William Macartney, died in August last. His son, also named William Macartney, who was never on the Register, personated his dead father and voted at Girvan, and his name is entered on the Poll Book. A protest was taken at the time. He *absconded* after voting, but has returned, and resides in Girvan.

Robert McConnel, an elector (No. 1411), *accompanied* Macartney to the poll, and was considered to take charge of him, and himself voted immediately before Macartney, and must have been cognizant that the *living* son was not the *dead* father; both parties being well known in the town, and in consequence appears to be guilty, art and part, in the fraud practised.

2nd. Kennedy Brown (No. 1305 on the Register), voted at the Girvan poll, notwithstanding that he acted previous to, and at the poll, *notoriously* as an agent for one of the candidates.

3rd. J. B. Ross (No. 1461 on the Register), voted at the Girvan poll, notwithstanding that he acted previously to and at the poll, notoriously, as an agent for one of the candidates. He was also believed to be aiding and abetting in the fraud committed by Macartney, and saw him commit it, as did Kennedy Brown.

The facts as to these two persons can be substantiated by many witnesses, and Sect. 82 of the Act of 31 and 32 Victoria, c. 48, no doubt applies, and ought to be applied, to them with practical effect. If referred to their oath, they could not have the hardihood to swear that they did and have acted without fee or reward, and that they have not been paid or do not expect to be paid, although possibly their reward may have come or be still coming, in some dexterous and concealed manner.

Thus a candidate received three votes, which ought not to

have been given, from one dead man and from two living, and profited in so far as these three votes go (and which might have decided the Election), from these shameless practices. Had they been given on the other side they would equally have deserved exposure; and if there were any such cases on the other side, which I do not believe, I hope that they also will be exposed.

In the part of the country in which I live, the polling places are Maybole, Girvan, and Colmonell. Undue influences — intimidation, persecution, and coercion — were practised to a shameful extent in the whole district and county, as parties can themselves prove; and punishment in matters of *trade* has, I am informed, been inflicted for the mere exercise of the free will of electors.

I trust that your Lordship will deem it to be proper to vindicate the law and prove that such practices cannot be resorted to with impunity and without public disgrace.

I propose to send a copy of this letter to the Chairman of the Committee of the House of Commons on the proceedings at and mode of conducting elections, for the information of the Committee.

I have the honour to be, &c.,

(Signed) T. F. Kennedy.

II.—Copy Letter. Mr. Charles Morton, W.S. Crown Agent, to Mr. Kennedy.

Crown Office, Edinburgh, March 22nd, 1869.

Sir,

I beg to acknowledge receipt of your communication to the Lord Advocate, dated 17th inst., regarding the poll at Girvan, in the recent election for South Ayrshire.

I am, Sir, your most obt. servant,

(Signed) Charles Morton,

Crown Agent.

III.—Copy Letter. Mr. Kennedy to the Right Hon. Henry Bruce, M.P., H. M. Secretary of State for the Home Department.

Dalquharran Castle, County of Ayr,
March 23rd, 1869.

Sir,

I take the liberty to enclose to you a copy of a letter which I have felt called upon to address to the Lord Advocate of Scotland, in connection with the recent contested election in South Ayrshire, being desirous that you should be informed of its contents, and thinking that you may be of opinion that the matter it contains might with propriety be laid before the Committee on election proceedings for which you moved.

It has seemed to me probable that you may consider it desirable that the Committee should receive information from all parts of the country, in order that they may have before them facts arising under all varieties of circumstances.

I hope you will pardon the liberty I take, as an old Member of Parliament from 1818 to 1834, having been much concerned in the preparation of the Reform Act for Scotland in 1832, with Lord Althorp, Lord Durham, Lord Duncannon, Sir James Graham, and Lord Advocate and Solicitor-General Jeffrey and Cockburn of that day, I take a deep interest in the purity and freedom of election in my native county of Ayr, where in my old age I reside.

I was unable to take an active part in the late contest, but was and am quite alive to the flagitious practices which prevailed, for which I am satisfied, as the great body of the public here is, that there is no remedy but the Ballot, and it is anxiously hoped that before another election takes place, it may be so provided by the law.

So far as the law will at present reach, it is most necessary that such practices as I have stated to the Lord Advocate should be exposed, punished, and repressed, as in this part of the county it seems to be felt that anything, at an Election, may be done with impunity, and will be passed over. Such a state of feeling demoralizes the public mind to a painful extent. I have the honour to be, Sir,

Your very obedient servant,

(Signed) T. F. Kennedy.

IV.—Copy Letter, from the Office of the Secretary of State to Mr. Kennedy.

Secretary of State, Home Department, April 4, 1869.

Sir,

Mr. Bruce desires me to acknowledge the receipt of your letter of the 23rd, enclosing a copy of a letter you had addressed to the Lord Advocate on the subject of personation, and other illegal or improper acts, which you inform the Lord Advocate can be proved to have been committed in the course of the late election.

And I am to say that Mr. Bruce has forwarded the Copy to the Chairman of the Committee on Elections.

I am, Sir, your faithful servant,

(Signed) Alfred Rutson.

V.—Copy Letter. Mr. Kennedy to Mr. Morton.

Dalquharran Castle, 8th April, 1869.

Sir,

I beg leave to say that I duly received your letter of the 22nd March, acquainting me that you had received my letter of the 17th addressed to the Lord Advocate on the

subject of the Poll taken at Girvan in the late Election for South Ayrshire.

I learn by common report that an investigation is taking place, and I think it proper that I should state to you, that the persons named underneath I should consider very competent witnesses on the subject, from the opportunities of knowledge which they had—

1. Mr. Kilpatrick of Ayr, who was appointed to take the Poll at Girvan.
2. Mr. Robert Fergusson, a conducting agent at the Election, 53, Newmarket Street, Ayr.
3. Mr. John Flanigan, Newton Kennedy, Girvan.
4. Mr. McKenna, Inspector of Poor and Distributor of Stamps, Girvan—entitled to vote, but debarred from taking an active part in an Election.

Probably these gentlemen may have been examined already, but it seems important that those who have accurate knowledge should be known. I am, Sir, &c.

(Signed) T. F. Kennedy.

The receipt of this letter was not acknowledged.

VI.—Copy Letter. Mr. J. F. Murdoch, Procurator Fiscal for the County of Ayr, to Mr. Kennedy.

County Buildings, Ayr, 14th April, 1869.

Sir,

Your complaint regarding Election matters was communicated to me by the Crown Agent. Before proceeding further with the matter, he has instructed me to enquire whether the Agents for the Liberal party have made any communication to you on the subject, and whether you are satisfied that no further steps should be taken.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) J. F. Murdoch.

VII.—Copy Letter. Mr. Kennedy to Mr. Murdoch.

Dalquharran, 15th April, 1869.

Sir,

I have this day received your letter of the 14th, and beg leave to say in reply, that I have received no communication from the Agents of the Liberal Party, respecting the occurrences which are believed to have taken place at the Poll at Girvan at the late Election, and that if I had I should have paid no attention to it. I am wholly uninformed of the result of any inquiries which may have been made, and can form no opinion on the subject.

I am not aware that either the Agents of the Liberal Party, or that I, have any right or power to interfere with the due course of the law, and I apprehend it to be the duty of the Public Prosecutor to see that the Law is not transgressed—no one having any right to compound transgression if it has taken place.

I am, Sir,

Your very obedient Servant,

(Signed) T. F. Kennedy.

VIII.—Copy Letter. Mr. Kennedy to the Lord Advocate.

Edinburgh Hotel, Edinburgh, 24th April, 1869.

My Lord,

In reference to the letter which I addressed to you on the 17th March, on the subject of certain occurrences at the poll at Girvan in the late Election for South Ayrshire, the receipt of which letter was acknowledged by Mr. Charles Morton, Crown Agent, on the 22nd of March.

I beg leave to enclose for your Lordship's information, a copy of a letter dated the 14th of April, which I received from the Procurator Fiscal of the County of Ayr, together with a copy of my reply, dated the 15th, and to state that

the letter of the Procurator Fiscal surprised me very much, and that I made the only reply I could make.

Being at Edinburgh, I have thought it right to call on Mr. Morton, the Crown Agent, in order to learn directly from him whether the letter of the Procurator Fiscal was written by desire of the Crown Agent; but although I had a good deal of conversation with Mr. Morton, I failed to learn from him anything on the subject, and am at a loss to understand this mysterious, and, as it appears to me, very improper occurrence.

I have the honour to be,

Your Lordship's very obedient Servant,

(Signed) T. F. Kennedy.

IX.—Copy Letter. Mr. Stair Agnew, the Lord Advocate's Secretary, to Mr. Kennedy.

The Lord Advocate, Scotland.
1, New Street, Spring Gardens, April 28th, 1869.

Dear Sir,

The Lord Advocate desires me to inform you that he inquired into the complaint lodged by you in regard to the recent election in the County of Ayr, and that there is, in his opinion, no ground sufficient to warrant his interference.

In the case of Mr. Kennedy Brown it is, in his opinion, proved that Mr. Brown acted gratuitously.

In the case of William Macartney, it appears, that it was the father's name that was on the roll, but in the Lord Advocate's opinion, Macartney believed the name to be his own and had no intention of personating his father.

I am further desired to say that the Procurator Fiscal's letter to you was written by the authority of Crown Counsel —that the Lord Advocate approves of the course which has been followed, and that he has come to the conclusion,

after full inquiry, that there are no grounds for criminal proceedings. I am, dear Sir, yours faithfully,

(Signed) Stair Agnew.

X.—Copy Letter. Mr. Kennedy to Mr. Stair Agnew.

Dalquharran, Maybole, 10th May, 1869.

Dear Sir,

Your letter of the 28th of April written by desire of the Lord Advocate duly reached me at Edinburgh, and I have been prevented by illness from sooner adverting to the subject of it.

You inform me that the Lord Advocate is of opinion that there are no grounds for criminal proceedings—in reference to the occurrences at Girvan at the late election as to which I had been informed by very credible persons.

I may remark that your letter adverts to the case of Macartney, who could not have felt himself to be *quite innocent, when he absconded,* and to Mr. Kennedy Brown, but it says nothing as to the case of Mr. J. B. Ross.

You inform me that the Procurator Fiscal's letter to me was written "by authority of Crown Counsel," which I confess surprises me, and "that the Lord Advocate approves of the course which has been followed."

I have to request that you will be so good as to ascertain whether the Lord Advocate has any objection to the Precognition taken by the Procurator Fiscal being sent to me, in order that I may see the statements contained in it, and how far I had been misinformed, and who the parties were who were examined. I am, dear Sir, faithfully yours,

(Signed) T. F. Kennedy.

XI.—Copy Letter. Mr. Agnew to Mr. Kennedy.

The Lord Advocate, Scotland.
1, New Street, Spring Gardens, May 12th, 1869.

Dear Sir,

I laid before the Lord Advocate your letter of the 10th, requesting me to ascertain whether he had any objection to the Precognition taken by the Procurator Fiscal being sent to you, and the Lord Advocate desires me to say in reply, that it is not customary to allow precognitions to be sent out of the Crown Office, and that he is unwilling to make an exception in your case, as he would by doing so introduce a precedent which he thinks would not be desirable. I am, dear Sir, faithfully yours,

(Signed) Stair Agnew.

Second Letter to the Right Honourable Henry Austin Bruce, M.P., Her Majesty's Principal Secretary of State for the Home Department, by the Right Honourable Thomas Francis Kennedy, in reference to the Public Prosecutor in Scotland.

July 10th, 1869.

Sir,

I beg leave to make a second communication to you as Secretary of State, in consequence of having had occasion to address a letter to the Lord Advocate on the subject of the working of the Poor Law in Scotland, in which the secret system of investigation by the Public Prosecutor again comes into view, and I am desirous that you should be informed of the cases to which I advert, and which illustrate that system.

I annex a copy of my letter of the 3rd of July to the Lord Advocate and of his reply, I annex a copy of a letter I addressed to the Chairman of the Committee then sitting

on the Poor Law of Scotland, and I also annex a letter which has appeared under the signature of "Justitia," which I venture to think contains some striking statements respecting certain parts of the administration of the criminal law in Scotland.

As regards the Poor-law cases to which my letter relates, a pecuniary loss is sustained in each of the parishes by malversation and embezzlement of monies, levied as poor rates on the property in the parishes, by public officers entrusted with these funds. This seems to concern the public very generally, as what has happened in one parish may happen in many, and all the more if the fraudulent parties go unpunished. It is not for me to say whether the parochial boards in the parishes in question took proper precautions to secure the safety of the parochial funds, but the *fact* is certain and undeniable, that malversation took place and a loss was sustained, adding to the burthens on the parish. The question arises whether the delinquent officers can be punished or are to set law and authority at defiance.

Steps were taken to ascertain this point, the facts were made known to the local public prosecutor, the Procurator-Fiscal of the county. It is to be presumed that he made himself master of the cases and communicated with the Crown Office at Edinburgh, and the result is that nothing is done! and the delinquents go free! as if they had been guilty of no misdemeanour. I, and others interested do not know and are not *permitted* to know, anything of these cases after getting into the hands of the Procurator-Fiscal and the Crown lawyers. I am compelled to resort to the strong measure of addressing a letter of complaint to the Lord Advocate, *the system* affords no redress, no satisfaction, nor even common information. The Lord Advocate informs me that he will make enquiry and inform me of the result. I feel it to be a great grievance that I should be compelled to

complain publicly on such a subject, but unless I did the subject would never be more heard of. It is, I apprehend, clear that until he received my letter, the Lord Advocate never heard of those cases, and no one could expect that he should, as it is manifest that among the extraordinary multitude of duties which a Lord Advocate has to discharge, and among them his duties to himself as a professional man, innumerable matters of importance must be disposed of by his subordinates, of which he is not destined to hear. But does not this make the secret system all the more objectionable and intolerable, whereas if publicity and openness existed, and if it was a duty to give information, the light of day would guard the interests of all: and things would take care of themselves.

With reference to these two Poor Law cases the Lord Advocate desires me to be informed that "he cannot relax the "general rule of the office in regard to cases, in which a "criminal charge has been made, on which he acts, as "regards private applicants," and he promises to inquire; but *whatever* may be the result of that enquiry, I and others must take as *final* and *absolute*. I must be permitted to say that such a state of things is nothing less than absolute despotism; and in this country I hope and believe that it cannot and will not be submitted to in silence. I know no law which confers or which can justify the assumption of such a power. Such a power cannot be exercised in England or Ireland. I do not think it will be submitted to in Scotland, and I mistake the character of my countrymen if when the naked fact is placed before them, they will not offer a determined and persistent remonstrance against its continuance.

The Lord Advocate has directed me to be informed in reference to my statement respecting the officer of the Board of Trade, that the rule of denial of all information does not

extend to all public departments, and that in the Roxburghshire case, it was quite correct to lay the precognitions before that officer. I am quite of that opinion; but I am equally of opinion, that a refusal would not be tolerated, and to my mind there could not be a more complete confirmation of the principle for which I contend. How completely does it mark the importance attached to open investigation and publicity. It is the urgent duty of the Board of Trade to inquire into all accidents on Railways, *openly* and *above-board*, and when the officer of the Board of Trade comes in contact with the Procurator-Fiscal, he desires to know his proceedings, the Procurator-Fiscal cannot himself consent, but at once applies to his superiors, and they at once bow down to the requisition of the officer of the Board of Trade! Can there be a more complete illustration of the cause I plead on behalf of the public, as if a Lord Advocate were to plead the rule of Office, in bar of an important inquiry, public opinion would at once overbear him. It may be asked, who *makes* such a rule as that on which the Lord Advocate acts? A Lord Advocate is not a legislature, and such a rule can only be a remnant of the rules of despotic times, which a Lord Advocate of *the present day* ought to liberalise and reform. But office and power are apt to deaden the feelings in favour even of beneficial alteration if it abridges power. It is dangerous to become a high public officer.

I am reminded in the Lord Advocate's letter that I am a private party; but while *I am* a mere *unit*, I am at the same time, one of that public who, when the strength of their case is placed before them, are very apt to make themselves felt. Hitherto a Lord Advocate has wielded despotic power, and while I have no wish to deprive him of any power which is necessary and beneficial to the public service, I do decidedly object to it being despotic and irresponsible, and I do believe that the voice of the public requires that he should

cease to exercise a secret and irresponsible inquisition, which in a multitude of cases, is *practically exercised* by his subordinate officers, *unknown to him;* and when their acts are in any case made known to him or called in question, he is bound to throw his mantle over them.

The Lord Advocate desires me to be assured that "my "statement, that there was something that it would be in- "convenient for me to know (in the precognition which he "refused to allow me to see) is entirely without foundation." I beg to say that I readily accept an assurance from one who bears his hereditary name; but it is necessary that we should be certain we use the same language, and that with each, it bears the same meaning, and I fear that he and I take our departure from opposite points of view of the same subject, and while that is the case, it is not a question of assurance or confidence. He is a defender of the existing system, I am directly at issue with him on that subject, what he thinks quite right, I think quite wrong. He thinks that what was done in the Girvan case was quite right, I think it was quite wrong. It is very possible that the written documents, of which a precognition and relative correspondence must consist, may contain no record of what I should consider wrong, but what was wrong may nevertheless have existed and have taken place.

When I visited the Crown Office at Edinburgh I at once saw that something was wrong. The studied silence and mystery towards myself and the private communications between the parties in the office, *in another room*, instead of being in *my presence*, made it clear that the officers in the Crown Office at least, did not think I ought to know what had been going on and which was known to them. I know enough of Public Offices to enable me to *interpret* what took place.

I have been quite aware that among local parties there

had arisen a desire for what was called "letting bygones be bygones," and I have been desirous to know how far this disposition had been allowed to operate in preventing the Procurator-Fiscal from discharging his duties in a correct and strict manner, how far it reached and operated in the Crown Office in Edinburgh, and how far the Lord Advocate himself might have allowed such extraneous considerations and representations, and sentimental disposition, to influence even his judgment and conduct. In what shape and through what channels were such influences brought to bear? for that they *did* operate is manifest. It is all very well to be forgiving in Political contests as regards the multitude of small asperities which may occur, but when you come to deal with fraudulent personation and such offences as the Act of the 31 and 32 Vict. c. 48 *stigmatises*, it is a little too much that grievous offences, *if susceptible of proof*, should be put aside on the principle of "bygones being bygones." It is nothing less than violating an Act of Parliament, to which a Lord Advocate at least ought not to be a party. What can be such an inducement to their repetition on the next occasion; and what can be so damaging to the respect which it is desirable to maintain towards the high office of Lord Advocate as that the *local undercurrent* of *public opinion* and *conviction, should be*, and *continue to be, at variance* with the conclusions to which the Lord Advocate announces "that after full enquiry" *he has arrived*. I am myself fully satisfied that the inquiries of the Procurator-Fiscal were made under the influence of "letting bygones be bygones," and that the subject was not dealt with on the basis of dry facts, or inquired into with impartiality. If proper witnesses had been examined *in public*, such a scandal could not have arisen and continue unredressed.

The Lord Advocate must suffer for the observance of his own rule, from which he refuses to depart. He must not

expect that parties who have ample knowledge of facts and who have made known their opinions, can accept and concur in his conclusions, *when denied the grounds on which they are founded,* or surrender their convictions on the mere dictum of an officer however high, who, while invested with powers, the exercise of which ought to be strictly judicial and invariably *performed in person,* is also a politician and a party man.

It is a dangerous and objectionable combination, which nothing but publicity can prevent from degenerating into tremendous evil.

The remarks of "Justitia" show the opinion which existed, and continues to exist; and it is impossible that public confidence should not be shaken, if the highest public officer be accessible to other considerations than an inflexible support of the law, unbiassed by *political* or *social* considerations.

August 3rd.

I had written thus far, and was disposed to pause until I should learn the result of the enquiry which the Lord Advocate was so good as to say that he would make; and I was in hopes that an official enquiry of that kind would take very little time, but as I have not yet received the information, I will now close this letter, with a few observations, which will apply, alternatively, to the result of the enquiry of the Lord Advocate, whatever it may be.

That result must be one of two things :—

Either, that the Lord Advocate discovers that proceedings ought to have been taken against the defaulting officers under the Poor Law, in the Parishes of Dailly and Maybole, and that he directs such proceedings now *to be* taken; or, that he announces that proceedings *cannot be taken,* by reason of some technical defect in the Law, and that no punishment can be awarded for a fraudulent embezzlement of Poor Rates.

If the Lord Advocate shall direct proceedings of a criminal character to be taken, it will be proved that there *has been* a miscarriage of justice *up to this time*, under the action of the Procurator-Fiscal and the Crown Office at Edinburgh, and that unless complaint had been made to the Lord Advocate, such miscarriage of justice would have been perpetuated and no redress would have been had, while under the "secret system," the whole affair would have been concealed, and all information denied, as it has been, to parties interested like myself. If this should be the result, it would be difficult to conceive a greater grievance, or a greater imputation on the local and internal working of the criminal law, in minor matters, although those matters extend to and affect the public interests, over the length and breadth of Scotland.

If, on the other hand, the Lord Advocate shall finally say, in confirmation of the failure of justice, *up to the time of my complaint to him*, that no proceedings can be taken, with the purpose of inflicting punishment on delinquent officers under the Poor Law, then it will be established that there exists a great wrong without a remedy, and that it is the bounden duty of the Law authorities in Scotland, (of which the Crown Office does not seem to be sensible, by making known a defect in the Law if such exists), to provide a legislative or other remedy; and at all events at once to abandon, voluntarily, the intolerable system of secresy, which infinitely aggravates the evil, and cannot fail to engender a most just discontent throughout the country.

The facts stand incontrovertible, that in the parish of Dailly the sum of £135. 15*s* 9½*d* has been embezzled; in the Combination Workhouse at Maybole the sum of £209. 17*s* 1*d* has been embezzled and got rid of; and those who committed the frauds have *profited by*, and are *not punished for*, their delinquency. These are the facts, be the result of the Lord Advocate's enquiry what it may; and I only hope that

he may yet show that fraud cannot be committed with impunity. It is for the Law to vindicate its supremacy and to inflict the punishment due to delinquency, either by the action of the Law as it exists, or by its amendment, so as to check the occurrence of such scandals, and such injuries to those who bear the burthens which fall on the public in the shape of the Poor Rates. I have the honour to be, Sir,

T. F. Kennedy.

I.—Copy Letter.

Dalquharran, Maybole, 3rd July, 1869.

My Lord,

I find myself constrained to trouble your Lordship with another letter on two matters connected with the working of the Poor Law, which involve both public and private considerations and interests, and in both of which the public Prosecutor, I understand, is concerned. Two cases have arisen, one a short time ago in the parish of Dailly, another recently in the parish of Maybole, in both of which considerable pecuniary loss is sustained by the Rate-payers through fraud and malversation of the Inspector and Collector (Woods) in Dailly Parish, and of the Master of the Workhouse (Matthews) at Maybole. In both cases those officers have been dismissed, on the grounds of fraud, malversation, and embezzlement. Proceedings were, as I am informed, taken against both of them with a view to punishment and example, but in both cases there has been a failure to attain any result, such as ought to follow the commission of gross fraud by a public and responsible officer. On the contrary, both parties escape, and are in a position to triumph in the success of their dishonesty.

I am a Landowner in both parishes, and with the tenants on my estate suffer as Rate-payers, in addition to the scandal which attaches to the commission of fraud and villany, with

impunity. I apprehend that both cases have been in the hands of the Procurator-Fiscal and of the Law Officers at Edinburgh, but the Landowners in the two parishes and the other Rate-payers, and the public at large, remain in total ignorance, (for which there seems to be no redress), of the grounds on which punishment does not follow the commission of crime, and on which the guilty parties escape.

I should have wished to see the written proceedings of the Procurator-Fiscal, and his communications (in both cases) with the Crown Office; but you desired me to be informed with reference to another subject, that it was contrary to rule to allow such documents to be seen, and that in the case in which I made a request, you could not consent to create a precedent which was undesirable.

But I must state that very soon after this communication, made by your Lordship's order (12th May), I received a copy of a return made to an order of the House of Lords, (on the motion of Lord Kinnaird), relative to a Railway accident in Roxburghshire. In this case an officer of the Board of Trade desired to see a precognition of the Procurator-Fiscal, and the return gives:—

"*Order of Crown Counsel, 4th Jan.* 1869.

"The whole papers and proceedings in this case *will* be "laid before Lieut.-Col. Hutchinson.

Initialed, "A. M."

I could not fail to be forcibly struck by the contrast of this off-hand order, *initialed*, I presume by an Advocate-Depute, with your Lordship's own refusal to me, on the ground of an inflexible principle from which there could be no departure, while the Advocate-Depute seems to have had no difficulty in at once dispensing with it, and in complying with Col. Hutchinson's request. In the case of the refusal to me, it is impossible for me to divest myself of the impres-

sion that there was something which it would be inconvenient that I should know, while in the Roxburghshire case that there was nothing of that kind. My former case related to the parish of Girvan, the two cases as to which I now trouble your Lordship, relate to the parishes of Dailly and Maybole. The *three* parishes are *contiguous*, and in the three parishes I am a Landowner, and it is a little remarkable, *that in the three, three such separate cases* should have arisen, so as to raise the subject of "the secret system" of the Public Prosecutor.

I am at a loss to know how a course ought to be taken as regards myself, so opposite to that which was acted on in the case of an officer of the Board of Trade, and whether in the Dailly and Maybole cases, I ought to expect the precedent affecting myself, or that affecting the officer of the Board of Trade, to be acted on.

I consider that the subject of this letter involves matters of so great public importance, and I am so desirous that *something* should result from it, that I propose to send a copy of it to the Secretary of State, and to the Committee now sitting on the Poor Law of Scotland, in case they should think fit to deal with the cases of Dailly and Maybole.

I have the honour to be, &c.

T. F. Kennedy.

To the Right Hon. The Lord Advocate, M.P.

II.—Copy Letter to the Chairman of the Committee sitting on the Poor Law of Scotland.

Dalquharran, Maybole, July 3rd, 1869.

Sir,

I beg leave to inclose to you as Chairman of the Committee on the Scotch Poor Law, a copy of a letter which I have addressed to the Lord Advocate respecting two cases which have occurred in the parishes of Dailly and Maybole

respectively, as to which I should think the Committee will consider that inquiry should be made and which are connected with the secret system of investigation by the Public Prosecutor.

I happen to know of these cases, from my connection with the Parishes in which they have arisen. I have been told of another similar case in a distant part of the country, but have no knowledge of it.

The Parochial Boards seem to be helpless in such cases; and in consequence a feeling seems to be arising that the Poor-rate is a fair field for plunder to any unscrupulous person who can contrive to misappropriate it.

May I request you to lay this letter and the letter to the Lord Advocate before your Committee on the Poor Law.

I am, &c.

(Signed) T. F. Kennedy.

To E. H. I. Craufurd, Esq., M.P.
Chairman of Committee on Poor Law of Scotland,
House of Commons.

[No intimation was received from Mr. Craufurd that he had placed these letters in the hands of the Committee.]

III.—Copy Letter. Mr. Stair Agnew to Mr. Kennedy.

1, New Street, Spring Gardens, July 5th, 1869.

Sir,

I am directed by the Lord Advocate to acknowledge the receipt of your letter of the 3rd instant, and to say in reply that his Lordship will make inquiry as to the two cases that you mention, and inform you of the result.

With respect to the wish you express "to see the written "proceedings of the Procurator Fiscal, and his communica-"tions in both cases with the Crown Office," I am desired to say that the Lord Advocate cannot relax the general rule of the Office in regard to cases in which a criminal charge

has been made, on which he acts as regards private applicants. This rule of course does not extend to public departments, and in the case of the railway accident in Roxburghshire to which you refer, Crown counsel acted with perfect regularity in directing the precognitions to be laid before an official of the Board of Trade if he saw fit to do so.

In conclusion I am to assure you that "the impression "that there was something which it would have been incon- "venient that you should know" in the proceedings which the Lord Advocate declined to furnish to you, is entirely without foundation. His refusal was founded entirely on the established usage of the Office, and the absence of any special circumstances in the case which could justify a departure from it. I have the honour to be,

Your obedient Servant,

(Signed) Stair Agnew.

Right Honble. T. F. Kennedy.

IV.—Public Prosecutor for Scotland.

(To the Editor of the Ayr Advertiser.)

Sir,—I have read with much interest the letter by Right Hon. T. F. Kennedy to Her Majesty's Principal Secretary of State, with the correspondence therein referred to, along with your judicious remarks, and trust that in these days of reform it will not be long ere the grievances which have been so well exposed in this pamphlet be remedied. We have certainly the advantage over England of having a Public Prosecutor, but the advantage is in a great measure neutralized by the secrecy with which the initiatory proceedings of the prosecutor are conducted, and all information withheld from the public, except in those cases which are brought to trial, and *then only when the trial takes place*. This secrecy is enforced on the ground that publicity might defeat the ends of justice, but you very properly remark that it rather

tends to frustrate them, and that the publicity given in England to these initiatory proceedings has frequently been the means of supplying a missing link in the chain of evidence by which the innocence or guilt of the accused has been more clearly established. The cases to which our venerable Reformer has referred in his pamphlet have been the subject of much talk in the district where they occurred, and if they are to be repeated with impunity, alas for the purity of election. The moment the information was lodged, an impartial and searching investigation should have taken place, without interference by one party or another, and if the accused could substantiate their innocence, a public trial would have removed the grave suspicions entertained, and brought out the facts which resulted in the Lord-Advocate arriving at the conclusion, that, in his opinion, there was "no ground sufficient to warrant his interference." The power thus vested in the Lord-Advocate is by far too arbitrary, and cannot be vindicated. Had the cases referred to occurred in England, Mr. Kennedy or any private individual could at once have brought the accused before a magistrate, and, on establishing a *prima facie* case, would have got them committed for trial; but in that case he would have been bound over to prosecute and to bear in the first instance the expense of the trial. The accused would also in that event have an opportunity of engaging an agent, who would cross-question the witness, and might either state or reserve the defence. It is unfair that a private party should be called upon to prosecute a public offence—and the law of England in this respect is faulty—but we should like to see the Public Procedure adopted in that country, as part of the law of Scotland. The whole of the initiatory proceedings with us savour too much of the Star Chamber of old. When an accused party is apprehended, all intercourse with his friends or an agent is debarred; he is taken before the Sheriff, and,

after being cautioned, a string of questions is put to him by the Fiscal, to wring out from him as much as he possibly can what he may use against him to ensure his conviction—he is committed to prison until the precognition be completed by the Fiscal, and then either liberated on caution or committed to prison for trial. The precognition is reported to Crown Counsel, and it is some time before an answer is returned whether or not he is to be tried. If the former, some delay takes place before a diet is fixed for the trial to proceed, and all this time he and his agent are kept in utter ignorance of the evidence which the Fiscal has secretly obtained, and are even denied a copy of the declaration which the accused himself emitted when under examination before the Sheriff. It is only after he has been served with his indictment that he obtains this copy and is furnished with the list of witnesses against him. The very declaration which he has emitted may be, and often is, withheld by the prosecutor at the trial, unless in his opinion it is to tell more *against* than *for* him. A state of things such as this, in a free and enlightened country, is quite intolerable, and it is amazing that we should have tacitly acquiesced in it for such a lengthened period.

The other point to which Mr. Kennedy refers in his pamplet that "Procurator-Fiscal should be public officers alone, and be debarred from taking private practice on any pretence whatever," is one of very great importance, and public opinion is verging very much towards it. I have heard it stated that the Fiscal of South Ayrshire has an arrangement with the Fiscal of North Ayrshire that when enquiries fail to be made with reference to accidents, &c., on the G. and S.-W. Railway, for which the Fiscal of South Ayrshire acts as legal agent, that these enquiries are conducted by the Fiscal of North Ayrshire. Nothing to my mind is more conclusive than this very arrangement of the soundness of

the objection above referred to. It shows that in the case referred to the Fiscal cannot act both as a legal agent and a public prosecutor, and great good without any hardship would result from the two offices being dissociated. Human nature is the same all over, and the office of public prosecutor should be detached from all temptation. Sheriff-Substitutes are prohibited from practice or acting as private agents, and the emoluments of their office in many instances are less than those of Fiscal. If a sufficient allowance be given to the Fiscal, and this should be done in every case, I would confine him to the peculiar duties of Fiscal. On this subject I could say a great deal, but my remarks have extended beyond what I anticipated. Allow me only to add, that as Mr. Kennedy was the pioneer of reform in our Criminal Courts when he was comparatively a young man, I hope that the interest which this pamphlet is fitted to awaken in the minds of those who sympathize with him in his views of the evils complained of, may lead to measures being adopted of bringing them under the notice of the Legislature, and that even in his old age he may yet see the other measure of reform passed into law. I am, Sir, &c.,

JUSTITIA.

Ayr, 29*th June*, 1869.

Third Letter to the Right Honourable Henry Austin Bruce, M.P., Her Majesty's Principal Secretary of State for the Home Department, by the Right Honourable Thomas Francis Kennedy, in reference to the Public Prosecutor in Scotland.

Dalquharran, Maybole, N.B., *January*, 1872.

SIR,

Between two and three years ago, I took the liberty to publish a First and a Second Letter, addressed to you as Secretary of State (to which letters I beg leave to refer) on

a subject which I consider very much to concern the interests of the People of Scotland, viz. "The Public Prosecutor," and what I call "The Secret System."—This system is acted on in all the Initiatory Proceedings under the Criminal Law, whether by the Lord-Advocate or his Deputies, the Sheriff, or the Procurators Fiscal in all the Counties and Towns of Scotland; and therefore concerns the whole People of Scotland.

My statements in these Letters were explained and illustrated by cases then of recent occurrence, and by correspondence annexed (which very much aggravated the evils of which I complained), the first relating to matters incidental to the election of Members to Parliament, the second having reference to the Administration of the Poor Law. I consider that while these matters involved facts of an important character, they also illustrated the vicious character and working of the "Secret System." These subjects come under your supervision as Secretary of State for the Home Department, and in an especial manner as Secretary of State for Scotland, to whom Scotland must look for an enlightened care of, and attention to, its interests. I am quite aware that according to past practice, and to a greater degree than is desirable, the Secretary of State looks to the Lord-Advocate for counsel and judgment in such affairs, but at the same time the law of England is so totally at variance with the law and practice of Scotland on this subject, that I could not but hope that your attention, as an Englishman, might be excited by the statements I made, and that you might assert and act upon *your own opinion—(which I cannot doubt)*, on the case. Still justice and truth call upon me to admit that in the interval, you have been overwhelmed by a vast multitude of difficult and important subjects which had urgent claims on your attention, and I by no means return to the subject in a tone of complaint, but rather in a tone of hope, that *something may be done.*

The Lord-Advocate of the day certainly did not inspire hope, from the tone of his correspondence, showing the danger to the Principle of improvement and Progress which is almost invariably engendered by the long possession of uncontrolled and irresponsible power, and which is not likely to be corrected by promotion to the highest Judicial position, but one, in the administration of the Criminal Law of Scotland. I am reminded of the resistance I encountered, fifty years ago, when I endeavoured to amend the Criminal Law, and *succeeded*, in spite of the resistance then offered; and in those days the power and sources of opposition were very different from what I should now have expected to find acting in the same spirit.

All I ventured to propose two years ago was that an enquiry into the subject should take place, but even if enquiry is made, such enquiries are often found rather to impede and to delay than to accelerate improvement and change of system, especially in the practice of the Law, to which good men will sometimes adhere, when reason and common sense seem to dictate an opposite course. Reflection has suggested to me, and such is the moving cause of this Letter, that no enquiry is necessary, that the evil is ripe for a remedy—that it does not bear discussion, and that a more rapid step in advance may be taken, so as at once to arrive at the only rational and reasonable result, even of an enquiry.

My proposal is, that a Bill should at once be brought into Parliament to carry into effect a simple and comprehensive improvement of the existing system of conducting all Preliminary Enquiries in the administration of the Criminal Law. Such a Bill I have attempted to draw, and annex the Draft to this letter, and at all events it will explain my meaning and object. I do not anticipate that it can be objected, that it would be ineffectual for its purpose. I do

not doubt that many persons may have imagined that to *touch* the existing system of secrecy, and to substitute for it a system of publicity, would imply and require an elaborate piece of Legislation, and such an allegation might be used as an excuse for procrastination and doing nothing, but I venture to think that the Bill I propose is quite intelligible in its object, and would not fail to be effectual for its purpose. That it may be improved and made more perfect, I am not presumptuous enough to doubt, but improving a Bill is very different from pondering over or neglecting a subject and doing nothing. It is against this result that I am anxious to provide and to protest, by shewing that the object can be carried into effect immediately, and by a very simple Enactment.

I annex the Bill which I have prepared—hoping that it may be improved—but not laid aside—and showing, as I think, that its object is very easily attainable—that no ponderous legislation is required—to effect even a *very large object*—which the alteration of a system is, affecting the whole people of an important part of the Empire. I have endeavoured to steer clear of the superabundant phraseology with which it has been too much the habit to encumber the language of Legislation.

This Bill, and the *number* of its *clauses*, cannot provoke prolonged contest in *Committee*, or expose it to *prolonged* discussion and resistance from its opponents—if such it shall have.

That there are those who will say that the change of system will defeat the ends of Justice—by allowing some real offenders to escape, I do not doubt, but such an allegation would be only an attempted defence of an expiring system, and my answer is that such is not the effect of the system of perfect openness and publicity which exists in

England, and I will not believe that in Scotland there would be a different result. I have the honour to be,

Sir,

Your very obedient servant,

T. F. Kennedy.

A BILL.

Whereas it is expedient that the system and practice which prevail in Scotland, of all Initiatory Proceedings in the administration of the Criminal Law, in all cases of suspicion of guilt, being conducted in Private and with closed doors, shall cease and determine, and that all such Proceedings shall be conducted with Publicity and with open doors :

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the consent of the Lords Spiritual and Temporal, and Commons in Parliament assembled, and by the authority of the same :

That all Enquiries and Precognitions held and taken in Scotland, by the various officers of the Law, shall be held and taken at all Places, with Open Doors, so that the Public may have Free access to hear the evidence given and taken, and to know all that takes place on all such occasions, any Law or Practice to the contrary notwithstanding :

Provided always that all Persons so admitted to be present at such Enquiries shall be bound to observe a strict decorum, and in no way or manner to interrupt the Proceedings held, and in the event of interruption or impropriety, the Parties so offending shall be held to be guilty of contempt of Court, and be treated accordingly—by committal, as in all other Courts.

When the Memoirs of Lord Brougham, written by himself appeared in 1871—Mr. Kennedy could not but have an indignant

feeling, on seeing embodied in that book a shameful and untrue attack on the memory of his late friend, the first Lord Dunfermline, with whom he had lived in habits of the closest intimacy and friendship throughout his life. He was prompted at once to repel and correct so shameful a statement, and as the readiest means addressed two letters to the Editor of the "Scotsman" newspaper. These letters were reprinted in order to give their contents somewhat more permanence, and are now again republished, with the same purpose.

Two Letters addressed to the Editor of the 'Scotsman' relating to a passage in the Life of Lord Brougham, written by Himself, by the Right Hon. T. F. Kennedy.

LORD BROUGHAM AND LORD DUNFERMLINE.

Dalquharran, Maybole, N.B., 28*th December*, 1871.

SIR,

I have just read, with indignation, a passage in the life of Lord Buougham, written by himself (Vol. iii., pages 230 and 231), respecting Mr. Abercromby, afterwards the first Lord Dunfermline, in reference to his having been Chief Baron of Scotland—his ceasing to hold that office, and becoming Speaker of the House of Commons. It is difficult to read a more malignant and wanton statement, and one less founded on truth, regarding one to whom, *visibly* at least, Lord Brougham stood in the relation of a friend.

I am one of the few persons now remaining who were members of the House of Commons during the early part of Lord Grey's Government, in intimate relations with its members, and, in particular, with Lord Althorp, the leader of the House and Chancellor of the Exchequer, when the Court of Exchequer in Scotland was abolished, in the same year in which the first Reform Bill failed to pass. I happen to be well informed on the subject of the abolition of the

Scotch Court of Exchequer, as it was intrusted by Lord Althorp to me, not then in office, but as a Scotchman, to carry the bill through the House of Commons. I therefore knew all about it, its history and provisions.

When Mr. Abercromby entered on his duties as Chief Baron, and had a little experience of the Court, he found that the business of the Court was so trifling, that to maintain such an establishment as that Court could not be justified. He therefore recommended that it should be abolished, and that recommendation was acted on. Had he desired to lead an idle life, he might have retained the office, and its salary of £4000, *to the end of his life*—at least, he could not have been *deprived* of the office without compensation to *the whole* amount of £4000 per annum. But he preferred a very different course, and sacrificed the office, accompanied by reduction of establishment. Thus the public gained largely, in a pecuniary sense, by the course proposed and acted on. In the meantime the Reform Act passed, and he was returned triumphantly for Edinburgh, the city in which he had abolished the Court of Exchequer; and he was subsequently elected Speaker in 1835, in one of the most memorable contests on record. He resigned that office in 1839, when, *contrary to all past and future practice*, he *was remitted* back to the *Exchequer abolition* pension of £2000 per annum (which was, of course, suspended while he was Speaker), instead of receiving the *larger* Speaker's pension, as in all other cases, and repealing the Exchequer allowance. Can anything be more unjustifiable than the account which Lord Brougham *goes out of his way to give*, and presumes to give, of these affairs, perverting the true character of what took place, as I know beyond question? It is well known that a money bill must be settled in the House of Commons, and cannot be touched in the Lords; and from my knowledge of the subject at the time, I do not believe that, although Lord Brougham was Lord Chancellor, he had much, if anything,

to do with the matter. It was settled between Lord Althorp, Mr. Abercromby, and myself.

Lord Brougham ascribes words to Lord Althorp which I do not believe Lord Althorp ever uttered. Lord Althorp and Lord Dunfermline were very intimate friends, and I am proud to think that they admitted me into much of that intimacy. I knew the relations in which they lived with each other, and no assertion Lord Brougham has made, and which becomes *public* only when *both* are gone, will satisfy me that Lord Althorp *ever spoke* of his friend in the manner in which Lord Brougham speaks of one to whom *he* stood in the relation of friend, so far as long-continued intercourse, personal and written, constitutes that relation, unless, indeed, all was hypocrisy on his part.

There is a curious piece of internal evidence in *the words* used by Lord Brougham when he says that Lord Dunfermline "retired to his peerage and pension, and *will* never be much more heard of." These words *when written* were clearly applicable to a *living* man, and the necessary inference seems to be that they were written *not* long after the peerage was granted and the retirement took place, which was in the year 1839, and Lord Dunfermline died in 1858, an interval of nineteen years; at all events, they must have been written *before* 1858. Yet we are told that this book *was commenced* and *written* when its author was on the verge of ninety years of age, which he *would have been* in 1869; but he died in 1868, ten years after the death of Lord Dunfermline. It is manifest from the words, and especially from the word "*will*," that the *friendly* character of Lord Dunfermline must have been written *many years ago* (long before the mass of the book was put together), and *carefully preserved* until a fitting opportunity to *launch it* should arise. Such seems to me a conclusion which cannot be avoided.

Nothing would have induced me to intrude myself on the

public as a critic of Lord Brougham's book, although not altogether unqualified, having known him from my boyhood, and having lived in active political life for eighteen of the years of which he writes. But nothing can induce me to remain silent when my friend is traduced, and when not even his son survives to protect his untarnished name.

I am, &c.,

T. F. Kennedy.

Dalquharran, Maybole, N.B., *January* 3, 1872.

Sir,

When I wrote my letter of the 28th December respecting Lord Brougham's book, I wrote in more haste than I ought, and ought to have taken time to consult the reports of the debates of forty years ago; but I was roused and impelled by the shameful and unexpected attack on Lord Dunfermline. I must, therefore, venture to trespass upon your space to set myself right on some points of history, but none of opinion. I have nothing to retract of what I said of the unwarrantable attack made—indeed, all I said is more than confirmed by a perusal of the debates. What my memory failed to tell me was, some of the details of *procedure* at the time, and the names of some of the considerable persons who took part in the debates, and their opinions on the bill for the abolition of the Court of Exchequer in Scotland. Of all the members of the House of Commons who took part in these debates in October 1831, it is a painful fact to find that not one survives except myself; but that may be some apology for my saying what I have to say—I write at the same age at which we are told that Lord Brougham commenced to write his book.

It is impossible to compress into the compass of a letter the contents, or even the substance, of debates of some length;

therefore I do not attempt it, and could not convey correct impressions by partial quotation. I may repeat that I had charge of the bill in the House of Commons, in the absence, *from severe illness*, of the Lord Advocate Jeffrey, who had brought in the bill. I may mention the names of the speakers in favour of the bill, and hope that those who take an interest in the subject will read their speeches in Barrow's Reports, which are much more full than those of Hansard. I may mention Mr. Cutlar Fergusson, a very able man; Mr. John Campbell, afterwards Lord Campbell, and Lord Chief-Justice and Lord Chancellor successively; Mr. Attorney-General Denman, afterwards Lord Denman and Lord Chief-Justice of England; Lord Althorp, Chancellor of the Exchequer; Mr. Solicitor-General Horne; Mr. Sergeant Wilde, afterwards Lord Truro and Lord Chancellor. No doubt the bill was disapproved by Sir Charles Wetheral (but not on the grounds now stated by Lord Brougham), and opposed by him, as by *all* the Scotch members, who opposed *all* reform in Scotland.

The second reading was carried on a division, in the *unreformed* House, on the 7th October, 1831:—Ayes, 95; noes, 31—majority in favour of the bill, 64.

After some delay in the subsequent stages, I carried the bill to the Lords, and on the 18th October what do we find?—Lord Brougham announcing that, owing to delays in the Commons, the bill must be postponed until the next session of Parliament, by reason of the bill coming up too late: and the Parliament was prorogued on the 20th of that month, *two days* after this speech of Lord Brougham. I was in error in saying that *the Act passed* in 1831, but that error, although I wish to correct any error, is of no moment.

But what was this speech of Lord Brougham of the 18th October? It was claiming for himself (as usual) the whole credit of the measure, saying that he had introduced the

bill, while there can be no doubt that it was the Lord Advocate who did so in the Commons, when it was devolved on me, in his absence, to take charge of the passing of the bill in the Commons. He also praises the Chief Baron's conduct, and there can be no question that the whole arrangement was made on the Chief-Baron's recommendation, and this fact is most pointedly adverted to in the Commons' debates, his recommendation of the abolition of his own office, and of the Court of which he was the head.

What, therefore, are we to think of the carefully prepared and preserved slander, put into a book said to have been commenced to be written in 1863, and now published in 1871, *forty years* after a measure was passed, which Lord Brougham praised at the time, and claimed the whole credit of?—a measure which he has afterwards converted into a condemnation of his friend, *to endure for ever in the book so far as he could secure that result.* The manifest aim and object of the book was to glorify himself, and perpetuate his own fame; and if the book was to attain that object for its writer, it was intended equally to perpetuate a most unmerited slander on the man of whose good name he was jealous (as of many others)—a name which I am mistaken if he can injure.

I am, &c.,

T. F. Kennedy.

The enactments of the Education Act for Scotland (1872) dealt with a very crying evil as regarded Education in the numerous *quoad sacra* Parishes of the Established Church of Scotland, in which, under the previous state of the Law, all provision for Education in the *quoad sacra* Parishes, was *wholly ignored,* and left to voluntary contribution, while the whole assessment *levied for* Education on all the land situated in those *quoad sacra* Parishes *was carried off* to the school in the ancient or Parent *quoad civilia* Parish. Mr. Kennedy

had looked to the passing of the Education Act with great interest as regarding this matter, in the hope that this flagrant injustice would be remedied, and he found that the result was most satisfactory, inasmuch as the ancient assessment for Educational purposes was swept away—its unjust application, *under the law*, put an end to—and a rate provided instead, applicable on the principles of strict justice, *alike, to all parts of Parishes* on which it is levied, whether *quoad Civilia* or *quoad Sacra*.

This was a most important *reform* and *result* under the Act as regards Education, but as a precedent, it becomes even more important by laying down a Principle which cannot but be equally applicable to the injustice committed by the law in reference to the Established Church. The *parallel* and greater case of injustice in *quoad sacra* Parishes, as regards the Church comes into prominent view. The argument that it ought to be redressed becomes irresistible, and cannot fail to be recognized, and ere long acted on by an alteration of the law.

In the meantime Mr. Kennedy could not hesitate to submit the subject to the consideration of the Public in the shape of a letter to the Lord Advocate, which is here reprinted. The subject has not hitherto been brought before the public attention, being part of parochial arrangements which are little known except to those who are personally and locally interested, but in principle, the aggregate mass of injustice is erroneous.

Letter to the Right Hon. the Lord Advocate, M.P., on the subject of the 'Quoad Sacra' Parishes of the Established Church of Scotland, by the Right Hon. T. F. Kennedy.

My Lord,

I hope I may be excused if I address this statement to your Lordship, on the ground that you are the author of

the Education Act for Scotland, one of the most important statutes which has received the sanction of the Legislature in modern times. I venture to advert to its importance, not only as regards its working for its own purposes in promoting universal education in a liberal and impartial spirit, but in reference to the principle which it involves, and the precedent it affords for dealing in a similar manner with other subjects.

It would be difficult to over-estimate the advantages which have resulted in times gone by, and to a large extent at the present time, from the parochial system of education in Scotland, which has existed for nearly 200 years, regard being had to the time at which it was established. It was then an admirable institution, but it had come to have its defects, the country had outgrown it, and its shortcomings had recently become of greater magnitude ; but it is the highest testimony to its vast utility that it should now recommend itself as the acknowledged basis for amendment and extension,—that it should only be necessary to modernize and adapt it to the altered state of things which time has brought forth.

Such is the progress of wise and practical reform as distinguished from a bigoted adherence to the details of an institution and arrangements, framed in far different circumstances, with a state of population dissimilar and with altered habits and requirements.

As a precedent, the Education Act points to a similar reform and reconstruction of the Established Church of Scotland, to a similar adaptation to the wants of the day which has arrived, and to the necessities and demands of justice which have now made themselves manifest.

As the ancient parochial system of education had become inadequate to the requirements and demands of justice to all, in the age in which we live, so the arrangements of the

Church are inadequate to and inconsistent with the requirements of the time, and unequal to the due discharge and fulfilment of its own professed functions, as conditions of its endowment.

So far as individual opinion is of any importance, I am myself in favour of the principle of an Established Church in preference to the action of the voluntary principle, inasmuch as it tends to moderate sectarian zeal and conflict, and therefore I speak not as an enemy, but as a friend to the Establishment; but I can be a friend only on condition that the Establishment shall conform and adapt itself to the principles of justice and liberality, and not pertinaciously adhere to antiquated arrangements, operating now in maintaining narrow selfishness and individual aggrandisement.

In proof of the opinions I entertain, it is only necessary to look to the past history of *quoad sacra* parishes, the mere creation and existence of which prove the inadequate and defective arrangements of the Church as it exists, which Church, it ought always to be borne in mind, exists for the benefit of the masses of the people, not for the worldly benefit of any select body of persons, however excellent and meritorious very many of them may be, who may choose the profession of clergymen. The existence of these *quoad sacra* parishes in their present condition proves that the Church has failed to extend its benefits to large and numerous sections of the country, comprehending in the aggregate a vast area, and a *vast,* though in some cases a thin, population within that area; but although it has thus failed *in its duties,* it has *not failed* in *carrying off* and *retaining* the whole emoluments appropriated under the law to the Established Church, in all the ancient and original but *diminished* parishes.

Each *quoad sacra* parish is a standing injustice to the people existing *in* and *upon* it, and to the owners of the

soil within it, whose estates provide the funds for church purposes, which funds are wholly retained by the parent parish in a wholly distinct and separate area. For such emoluments so carried off and retained, no duties or ministrations *whatever* are performed—they are wholly misapplied, except that the law sanctions such grievous misapplications. The case of hardship and injustice as respects the *quoad sacra* parishes is not limited to the matter of payment of stipend, but equally exists as regards parochial buildings, churches, manses, &c. (and *did* exist as to school buildings) and the perpetually recurring repairs and alterations of both. The *quoad sacra* parishes have to find their own buildings, while they continue to have their full share of the burthen of the buildings of the parent parishes, which have *preserved* their right to levy all monies which they may choose to require, rendering no sort of equivalent in return. As yet no sense of justice seems to have arisen on the subject, and unless it is brought before the public, there seems to be no hope of change or remedy; but in public opinion there is always eventual justice. The subject concerns a very large number of persons.

As in the educational system, so in the areas and parishes of the Church Establishment, the present system of unjust appropriation ought to be swept away, and a new and equitable system substituted in lieu of it (subject always to an equitable and reasonable adjustment of the temporary rights of existing incumbents), co-extensive with the several and whole areas on which are levied the whole funds of the Church. *Where* monies are levied, *there* ought to be appropriated those monies, on the principles of simple equality and justice, until all are equally provided for.

The Church ought to reform itself, and shew its sense of justice, and that it *can* act on principles higher than the love of gain; but hitherto it has shewn no disposition to do

so, and if no one is to speak plainly on the subject there seems no reason to expect that amelioration will ever take place. It is to be feared that to mention the subject will call forth much disapprobation; but it is right and necessary that it should not be allowed to sleep. If the Church will not reform itself, nor allow itself, by acquiescence, to be reformed, it will lose its friends, and cease to exist as an Establishment. It cannot afford to be unjust. An Established Church is established and exists for the benefit of those who choose to adhere to it, not for the benefit of its pastors, who are its mere instruments, and it may *alienate* as well as *attract* adherents.

Where no duties are performed there no emoluments ought to be levied and to accrue. Innumerable illustrations of the unjust system now in existence might be given. I will confine myself to one illustration and example in which I have myself undeniable cause of knowledge. In the parish of Maybole four sections of the original parish have been cut off, and have been formed into a distinct *quoad sacra* parish, or have been made contributory with parts of other parishes to the formation of *quoad sacra* parishes, and the whole Church funds of the *four sections of country cut off from* Maybole, remain with and are retained by the original and parent parish, although shorn of the four sections cut off. The off-sets are thus *turned adrift—paying* in full, but *receiving* nothing.

A property of mine exists in *one section* so cut off, which section *alone* constitutes the *quoad sacra* parish of Fisherton. My property alone paid in the year 1871, £74. 2*s* 10*d* as stipend to the minister of Maybole (six miles distant), that sum being by law carried off from the area on which it was levied—and so with all the properties within the area of Fisherton. It *was* the same as regards education—assessment *paid*, but nothing *received*—all went to Maybole. The

Education Act has happily redressed that grievance. To Maybole I wish all that is good—but not at the expense of justice and reason. So with all the *quoad sacra* parishes throughout Scotland, of which the number is very great. Yet it is called an Established Church which has despoiled all the *quoad sacra* parishes, and appropriated to a *part* of a parish what was given to the whole. Such a system is a contradiction in terms, when applicable to an Established Church, which has no meaning unless it provides for all the members of its communion, and does not condescend to rest on the voluntary principle. The Church has yet manifested no disposition to remedy this glaring incongruity and injustice.

I am disposed to think that the true mode in which to effect a salutary change would be, as under the Education Act the old assessment has been abolished, so in the Church, wholly to extinguish the system of teinds, which involves such unintelligible complication and delays, to merge the whole teinds in the land from which they come, and in lieu thereof to impose a rate to the extent of the value of the teind—for equitable application. Such a measure would be an application to the Church of the same principle as has been most properly adopted and enacted under the Education Act. It would be a simple and effectual arrangement for putting an end to the intolerable annoyances in the Court of Teinds—to the great expense of law proceedings in the administration of the law of teinds.

It is said that there are in the Church many livings *so small* as not to afford the means of decent comfort and external respectability. This is a great evil and much to be lamented, which ought to be remedied, and I have presumed to point out the manner in which I venture to think this ought to be done; but there is the still greater evil, of which the Church and some who profess to be its friends *take no*

heed, and that is the case of the ministers of the *Established Church*, for such they are, for whom the Church provides no emoluments *whatever*, and of which the long list of *quoad sacra* parishes are the examples and are the standing reproach of the Church.

It comes to this, that the first duty of the Church is to reform itself, and it is wholly inconsistent with the mere idea and principle of an Established Church, that any part of it should be dependent on eleemosynary aid, either in the case of the small underpaid livings, or in the mass of the more flagrant cases of *quoad sacra* parishes, where no *stipends whatever* are provided from *the funds of the Church*. No disposition has been found in the clergy of the *Established* Church to renounce pecuniary benefit for the loftier ends which they ought to regard.

To make the whole subject clear to the eye as well as to the understanding, let an Ordnance map be taken, let the boundaries of original parishes be coloured, let the boundaries of the whole of a *quoad sacra* parish which has been cut off, and of the parts which are contributory to a *quoad sacra* parish, be marked by distinct colours, it will be seen what constitutes the *parent* parish and what the *several* parts. No doubt all this is done *according to law*, but it is that law which ought to be changed and put an end to. The incumbent of the parent parish is relieved from all duty to the several parts, the mere existence of which, as the whole or as part of a *quoad sacra* parish, proves the case of enormous injustice.

The subject is a vast scandal, and it does seem extraordinary that it should not have generally attracted the public attention at an earlier period. It is to be hoped that the evil may be remedied at no distant time. The Church cannot afford to allow it to endure.

It seems to me that a committee of Parliament ought to

be appointed, or a Commission to be issued to ascertain the facts; they are *patent,* but consist of details which require to be collected and put *into shape.* Legislation might follow, and redress be obtained in a moderate period of time.

I have presumed to address this statement to you, well knowing that if I am in any respect in error in my views you will be well able to correct me, but that if you should coincide with me in my opinions, you may be disposed, and may have the power to give effect to them.

I have the honour to be

Your Lordship's very obedient servant,

T. F. KENNEDY.

March, 1873.

THE END.

G. NORMAN AND SON, PRINTERS, MAIDEN LANE, COVENT GARDEN.